

**MINUTES OF OVERVIEW AND SCRUTINY COMMITTEE 14 OCTOBER 2013**

**CALL-IN OF THE CABINET DECISION RELATING TO LLANTHONY SECUNDA PRIORY**

The Chair drew Members' attention to the guidance note which set out the procedures and time constraints to be adhered to during the debate.

**Councillor Jeremy Hilton addressed the Committee in support of the Call-In**

Councillor Jeremy Hilton summarised the reasons for his Call-In of the Cabinet decision made on 11 September 2013 relating to the Priory. In particular, he wanted to be certain that removing or amending the covenants relating to the land was the correct thing to do and that the right for the Council to appoint two Directors to the Trust Board needed to remain. He added that he was concerned that the financial and legal implications within the original report to Cabinet on 11 September 2013 including a letter from the Trust were not detailed enough. Despite receiving further information from the Trust since his Call-In he was not convinced that the restrictive covenants needed to be removed. Councillor Hilton queried if the Section 106 agreement could be amended to allow the grounds to be used for public access. Councillor Hilton believed there should have been cross-party consultation on this matter leading to a decision on the Trust's future being made by Full Council. He stated that the decision taken by Cabinet was unsound for the reasons given in his Call-In Notice.

**Points of Clarification on Councillor Hilton's submission**

The Chief Executive provided the Committee with points of clarification on matters relating to:-

- Cabinet's right to make the decision
- The fact that some documents referred to by Councillor Hilton were Trust documents and that the Council had no automatic right to see them
- The Heritage Lottery Fund (HLF) bid.

Councillor Haigh asked Councillor Hilton why he believed the Cabinet decision was unsound. Councillor Hilton responded that he had the right, as did any other Council Member, to call in the decision, for the reasons given in the Call-In notice.

**Councillor James addressed the Committee**

Councillor James explained that he would be sharing his presentation with Mr Jeremy Williamson who was representing the Trust.

Councillor James commented that he believed there was sufficient information within the body of the report and stressed the need to secure a sustainable long-term future for the Trust in order to build on the success of the organisation since its formation in 2007. He urged the Committee to listen carefully to Mr Williamson's presentation and to show confidence in the Trust.

Mr Williamson gave a presentation which highlighted the following points:-

- The history and importance of the site
- The Trust's objectives
- The Trust's achievements
- Research carried out
- The money already spent by the Trust to improve the site
- Events held
- Long term strategy and business plan
- Trustees both current and future proposals – Trust keen to formalise role of City Councillors
- Details of the HLF bid including anticipated outcomes
- Legal constraints
- Observations on step-in rights

#### **Points of Clarification on the Decision Maker's submission**

The Chair enquired if the HLF audited the approved bids afterwards. Mr Williamson confirmed that was the case.

Councillor Haigh commented that the Section 106 agreement and the restrictive covenants were quite different and asked what the Trust was seeking to vary. The Chief Executive responded that the documents were complex and that there were a range of issues tied to the Section 106. It was intended to remove all the restrictive covenants.

Councillor Haigh questioned paragraph 4.2.5 of the report which referred to the removal of the right to appoint two Director posts whilst Mr Williamson had suggested that there was no such right. The Chief Executive confirmed that there was a difference of opinion on this matter; the Council being clear that there was still such a right. However, as the Trust had conceded before the Cabinet decision its willingness to receive nominations, this was no longer relevant to the Committee's deliberations.

Councillor Beeley asked how the College intended to use the site. Mr Williamson responded that the College wanted access and also to use the restored central buildings as an exhibition/conference centre.

## **Cross-examination of Witnesses by Committee**

Councillor Field queried whether the Trust would object to having City Councillors as directors if they lacked the necessary skills. Mr Williamson said that it was important that all trustees had useful and appropriate skillsets as the trustees had to work to make things happen.

Councillor Wilson was concerned that having 'faith' in the Trust as stated in the draft Cabinet minutes was not enough. He also believed it should not be left to one or two nominees to secure public access. Councillor James commented that the draft minutes did not entirely capture the discussion at Cabinet and stressed the importance of trusting organisations to work in accordance with their aims and objectives.

Councillor Haigh remarked that there was not enough clarity arising from the discussions or from the draft minutes of Cabinet and that she was uneasy about the way the decision had been made. She suggested that, as the original decision had been made by Council, that this matter should also be referred to Council. Councillor James responded that the Trust was now mature and allowing the Call-In would have an impact on its future. The Committee's decision should not be based on the draft Cabinet minutes.

Councillor S Witts noted a perceived contradiction between Mr Williamson's presentation and paragraph 4.1.5 of the report which stated that there would no longer be any right to public access. The Chief Executive confirmed that Cabinet had taken the decision in the full knowledge that access would be preserved, as the Trust had already committed to this.

Councillor Chatterton said that he believed that the City Council had a responsibility to protect the site and that it should remain with the Council should the Trust fail. He queried why continued public access should pose a problem and confirmed that he had no issue with the Section 106 which was an entirely separate matter for Planning Committee to consider, but was keen to keep the covenant. In response, Mr Williamson said that he had to be guided by the lawyers. The Heritage Lottery Fund was the only way of providing the necessary funding and unless the legal agreements were tied up there would be no anchor tenant and no Heritage Lottery monies.

Councillor Wilson speculated whether the agreement could be revised with the covenants left as they were. Mr Williamson remarked that his had not been discussed with the anchor tenant. He added that the recent newspaper coverage regarding the Call-In had already damaged the Trust's reputation.

## **Summing Up - Councillor Hilton**

Councillor Hilton disagreed that any damage had been done to the Trust and said that effective scrutiny of a Cabinet decision was necessary to ensure it was the right one. He wanted to see the Trust succeed, but if it failed, he sought the reassurance of

knowing the grounds and buildings would come back to the City Council. He commented that Councillors might not have the skillsets of architects and accountants but they would ensure that matters were dealt with in the public interest. He asked the Committee to support the Call-In and refer it to Council.

On a point of clarification, the Council's Head of Legal and Policy Development reminded Members that when they were appointed to serve on outside bodies their primary obligation was to that organisation and they were not required to represent the public interest when acting in this capacity.

### **Summing Up – Councillor James**

Councillor James stated that Cabinet was fully entitled to make this decision. He considered that the Trust was now mature and competent and it needed the Heritage Lottery Funding to secure the future of the Priory. He said that referring the Cabinet decision to Council could endanger this. Councillor James suggested that the Committee should instead allow further discussions with the lawyers and the anchor tenant. He added that there was a risk that unless the Heritage Lottery Bid succeeded, the Trust could decide to wind-up and pass the Priory back to the Council. This was not something the administration wanted to happen.

### **Decision of the Committee**

Having considered all the issues raised in the Call-In, the response of the Cabinet Member and Mr Williamson, and the advice of the Chief Executive and the Head of Legal and Policy Development, the Committee:-

**RESOLVED That the Cabinet decision of 11 September 2013 (minute 35) relating to Llanthony Secunda Priory Trust be referred back to Council for reconsideration for the reasons stated in the Call-In request.**

In referring the matter back, the Committee requested that the following recommendation be added:-

- **That the issue of the covenant be clarified and separated from the Section 106 agreement and simplified.**