

OVERVIEW AND SCRUTINY MANAGEMENT BOARD
18th February, 2015

Present:- Councillor Steele (in the Chair); Councillors J. Hamilton, Sims, C. Vines, Watson and Wyatt.

Call in sponsors : Councillors Cowles and Reynolds;

Councillor Hoddinott (Deputy Leader).

Apologies for absence were received from Councillors Currie, Middleton, Parker, Read and Sansome.

103. QUESTIONS FROM MEMBERS OF THE PUBLIC AND THE PRESS

There were no questions from members of the public or the press.

104. DECLARATIONS OF INTEREST

Councillor Wyatt declared a personal interest in the subject matter of Minute No. 105 below, as being a volunteer helping at a charity fund-raising event (organised by a committee of volunteers) which would be taking place at the Magna Centre in the near future. Having declared his personal interest, Councillor Wyatt remained in the meeting to speak and vote on the item.

105. CALL IN - MAGNA TRUST LOAN RENEWAL

The Chairman welcomed everyone to the meeting and the call-in procedure was explained.

The Overview and Scrutiny Management Board considered Minute No. 141 of the meeting of the Cabinet held on 4th February, 2015 concerning the decision for the Council to provide an additional loan facility to the Magna Trust. The resolutions of the Cabinet were:-

“(1) That a short term Council loan facility to the Magna Trust of £250,000 be deferred.

(2) That the decision taken by the Chief Executive on 16th January, 2015, in accordance with her delegated powers, to provide Magna with an immediate additional £100,000 loan facility, to be drawn down by Magna on demonstration of need, be noted.

(3) That the appointment of an independent consultant to undertake a review of Magna’s business, to help to strengthen the Magna business plan and to assess the future viability of Magna, be approved and a report be submitted back to the Cabinet in due course.”

The written and signed call in request, dated 9th February, 2015, read as follows:-

“At the Cabinet meeting, Wednesday 4th February, 2015, the Cabinet agreed to continue funding Magna over the short term and to hire an independent consultant to provide further insight and information into the longer term viability of the business.

UKIP does not believe this is necessary and that additional expenditure on the services of an independent consultant is a further waste of public money.

There is sufficient experience within the Authority to analyse the financial position at Magna and the management in place can provide additional information with regard to future business and the supporting services required to allow the Council to make a fully informed decision with regard to the ongoing viability of this enterprise.”

Councillor Cowles, supported by Councillor Reynolds (present) and also by Councillors Cutts, Reeder, Turner and M. Vines (not present) explained the reasons for the call-in request and presented the objections to this proposal, with reference to the following issues and views:-

- a) The possible loss of employment at the Magna Centre would certainly be regrettable, however, there is no justification for this Council continuing to provide loans to the Magna Trust;
- b) Equally, there is no need to appoint an independent consultant to undertake a review of the Magna Trust's business, because this is just a very short-term study of the organisation and one which is capable of being completed by the Council's own finance officers;
- c) The Magna Trust must be asked to prepare its own business plan and not have an independent consultant prepare one on its behalf;
- d) The Council should not be making a decision on any grant for the Magna Trust until Council Members have seen and studied the Trust's business plan;
- e) The Council's proposed funding of the 'Man of Steel' sculpture is also questionable and which will be questioned later this year;
- f) This Council is only one of three organisations which provide funding for the operation of the Magna Centre; if the other two organisations are not providing funding for this latest issue, then why should the Council be doing so ?

- g) The Magna Trust is known to be fairly weak, financially and there are other concerns about the business which have not been included in the report which the Cabinet had considered at its meeting on 4th February, 2015;
- h) The Magna Trust is effectively two separate businesses : one is a visitor attraction; and a study of that business, over a period of time, shows that visitor numbers are reducing and further investment is needed to make the whole project viable; attractions and museums, such as this, always have to be providing something different, so as to attract both new and returning visitors;
- i) The second of the Magna Trust businesses is to do with corporate entertainment and is a business facing competition both from Rotherham United's New York football stadium and also from the Arena stadium in Sheffield. This Council itself has taken business away from the Magna Centre and instead often uses the New York stadium's corporate facilities;
- j) The Magna Centre has huge utility costs and conditions are usually cold within the vast building. It is difficult for these problems to be overcome and to continue developing the business;
- k) A repeat of the assertion that there is no necessity to appoint an independent consultant to undertake a review of the Magna Trust's business;
- l) The potential windfall income opportunities, which may help reduce the Magna Trust's loan obligations are in themselves only one-off, isolated opportunities and it is speculative to try and suggest that they will produce a substantial amount of income;
- m) As the report to the Cabinet meeting states, the Magna Trust has to develop a sustainable business model in the future, but there is no evidence that any long-term business has yet been secured; is the building suitable for hosting corporate entertainment ?
- n) This Council has previously provided a long term loan to the Magna Trust; however, this proposed short-term loan will not be a secured loan;
- o) Whilst there may be some potential for the building of a hotel in the vicinity of the Magna Centre, this Council has previously refused planning permission for a hotel near there (Premier Inn application);
- p) A member of the public had previously asked a question of this Council (circa 2013) about the ownership of land at the Magna Centre; however, that member of the public has not been afforded the courtesy of a reply;
- q) Again, any loss of employment and jobs would be regrettable and the study of the Magna Trust's business plan should be undertaken by finance officers of this Council; the study would take just a month to

complete; the Council is seeking to avoid any more 'bad news stories' in the months before this year's elections; the Council is being too political in its approach to this matter;

r) Financial and business information should be available from the Magna Trust, about its future plans; if the visitor attraction aspect of the business cannot be improved, it seems unlikely that the corporate entertainment element, on its own, would ensure the future survival of the whole business.

The Chairman invited the other Councillors supporting the call in request to make comments, as follows:-

i) Councillor C. Vines commented that it has taken some thirteen years for the Magna Trust to develop the corporate entertainment element of the business. Although the Council has a charge over the Magna Project Office, as security on its long term loan, there should still be more information forthcoming from the Magna Trust; the UK Independence Party members cannot support the council pumping public money into a thirteen-years-old business which is not operating satisfactorily; It is possible that the Magna Centre ultimately does have a future, but this council should not be propping the business up with extra funding year after year;

ii) Councillor C. Vines, quoting from the report submitted to the Cabinet meeting, commented that this Council is one of three members of the Magna Trust, alongside the Barnsley and Rotherham Chamber of Commerce and the Stadium Group (owners of the Retail World shopping centre at Parkgate). Why should it be only this Council which provides funding to the Magna Trust ?

iii) Councillor Reynolds referred to an article published in the 'Rotherham Advertiser' newspaper which stated that there were some 80 jobs at stake, at the Magna Centre. How many of these are full-time, permanent jobs and how many are short-term, casual and/or zero hours contracts ? The visitor attraction part of the business is not good enough, when compared to attractions such as Alton Towers (which is frequently updated and attracts many repeat visitors); the Magna Centre is very similar to the former Earth Centre (Conisbrough, Doncaster) and is not a good enough attraction.

The Chairman replied that it was not the purpose of this meeting to comment on articles and information published in the media.

The Elected Members of the Overview and Scrutiny Management Board were invited to ask questions of the Elected Members responsible for the call in, as listed below:-

(A) Councillor Watson - in the light of the recently-published Governance Report (by Louise Casey), which is critical of some aspects of the Council's operations, such that the Council cannot move matters forward, is it better to appoint a consultant to examine the Magna Trust business plan, rather than this Council's officers ?

Response – Councillor C. Vines stated that the three partners of the Magna Trust (ie: this Council, the Barnsley and Rotherham Chamber of Commerce and the Stadium Group) should get together and undertake the work as a partnership; and the Magna Trust should prepare its own business plan.

(B) Councillor Wyatt - suggested that the procurement of an independent assessment (of the business plan) and the examination of the profit and loss of the business, seems to be reasonable and it is difficult to know why UK Independence Party are objecting to that ?

Response – Councillor Cowles stated that the interim Strategic Director of Resources and Transformation and his team of finance officers should be capable of undertaking this work; alternatively, a local firm of accountants would be able to complete the work quickly because it is not a lengthy, time-consuming job.

On behalf of the Cabinet, Councillor Hoddinott (Deputy Leader) attended the meeting to respond to the issues raised by this call-in request. In making her response, Councillor Hoddinott received advice from the Council's Finance Manager

Councillor Hoddinott's response to the call-in request:-

a) It is the intention of this Council to take a fair view of the Magna Trust, going forward and the Council is asking similar questions (ie: to the ones now being asked as part of this call in process). The Cabinet has decided to obtain an independent view of the Magna Trust's future business intentions, in order to make an informed decision about any future loan financing;

b) Consideration of a short term Council loan facility to the Magna Trust of £250,000 was deferred at the Cabinet meeting (4th February 2015), pending receipt of the independent consultants' report on the Magna Trust business plan, as well as further information and legal opinion about issues concerning land around the Magna Centre.

c) The Council realises the full extent of what is at stake with the Magna Centre – jobs and employment, as well as the future of the land and buildings;

- d) This Council's involvement with the Magna Trust has lasted many years; it is now important that the Council obtains an independent opinion about the Magna Centre's future business opportunities. The independent consultants will provide expertise which is not available to the Council in-house;
- e) Issues to be examined include the Magna Centre's current trading levels, the leisure and other events scheduled to take place at the Centre, as well as the method of structuring the company in the future;
- f) When the information about the business plan is available, the Government-appointed Commissioners to the Council will be asked to make a decision about it.
- g) The costs of the independent consultancy work will be relatively small, for a short-term contract, when compared to the cost of the Council possibly making another loan to the Magna Trust (ie: a possible loan of £250,000).
- h) It is preferable that the Council seeks to get a fresh pair of eyes (ie: an independent consultant) to study the Magna Trust's business plan.

The Finance Manager reported the following information:-

- i) The Magna Trust will provide the business plan and the independent consultants, to be procured by the Council, will examine that plan;
- ii) Officers are well aware of the current standing of the Magna Trust and understand its finances;
- iii) Two years ago, the Trustees were managing the Magna Trust and were not receiving any payment for that work; later, Mr. John Silker was appointed as Chief Executive and has improved the management of the business;
- iv) The possible development of a hotel and restaurant is being considered as one means of trying to attract more investors to the business;
- v) the independent consultants will need to look at the future business plans and the consultants will only be commissioned if the business plan suggests that radical changes ought to be made to the business in the future; if the business plan merely suggests continuing the business in much the same way as before, this Council's finance officers will examine and report on the business plan.

Councillor Hoddinott confirmed that the correct use of public funding is paramount in the Council's decision-making in this matter; the Council is making a small investment now, in preparation for making an informed decision later on.

The Elected Members responsible for the call in were invited to ask questions of the Deputy Leader, as listed below:-

(1) Councillor Cowles – Why should the Whitbread company be turned down by the Council (when applying to build a hotel), because they know their business, but instead a hotel is acceptable for the Magna Centre ?;

Response – both the Deputy Leader and the Finance Manager confirmed that this question ought to be asked of the Magna Trust; Chief Executive of the Magna Trust, John Silker is now talking to companies in the hotel and catering industry.

(2) Councillor Cowles – referred to the Council deciding to transfer some of its business to the New York football stadium and away from the Magna Centre; it seems that there is too much Council investment in the New York stadium and is it an issue that needs to be looked at ?

Response – Councillor Hoddinott acknowledged that there was a need to examine the Council's use of venues for events.

(3) Councillor Cowles – referred to the estimated cost of commissioning the independent consultants and asked the Deputy Leader to quantify the meaning of a “small sum” of money.

Response – Councillor Hoddinott stated that the Council will procure the independent consultancy, at an estimated cost of £15,000 to £20,000 depending upon the scope of work and the sophistication of business plan; the actual, definite cost will depend on the cost quotes eventually submitted to the Council.

(4) Member of the Overview and Scrutiny Management Board, Councillor C. Vines asked : “what do accountants know about marketing ?”

Response – the Finance Manager stated that the chosen consultancy will have to be a specialist in examining business plans and the viability of businesses.

(5) Councillor Reynolds - where is vision of the Magna Trust's new Chief executive and where is the larger, overall vision for the whole site ? what is the scope of the jobs available there ? Is there an option, for example, to shut down the whole business and instead use the land for social housing and re-employ the people there in construction work ?

Response – Councillor Hoddinott stated that the Magna Trust's business plan will contain information about the proposed future use of the Centre and the Council will ultimately assess the viability of that plan and decide on whether to make loans in the future.

(6) Member of the Overview and Scrutiny Management Board, Councillor C. Vines asked : concerning the three partner organisations' involvement, what discussions have the three partners had together and is there any agreement to share these costs between all three organisations (ie: this Council, the Barnsley and Rotherham Chamber of Commerce and the Stadium Group) ?

Response – Councillor Hoddinott explained that this Council takes the lead role and has the major financial share (in the Magna Trust); the Council is therefore taking this proposal forward on that basis; the Council has discussed the proposal with the other two partners, but ultimately this Council is taking this action on its own as the lead partner.

(7) Member of the Overview and Scrutiny Management Board, Councillor C. Vines asked whether this Council knows the views of the other two partner organisations on this issue and offered the opinion that this Council has only limited knowledge of the business.

Response – Councillor Hoddinott stated that, as the Council needs to know about the future of the Magna Trust's business plans, therefore the services of an external consultant should be engaged.

The Finance Manager also stated that the Council has had discussions with other members of the Magna Trust Board and with Trustees who have no links to the two partner organisations. Reference was made to the complicated inter-creditor deed (as described in the report considered by the Cabinet on 4th February 2015), with various funders being involved : this Council, the Big Lottery, the Department for Communities and Local Government, Yorkshire Forward, Lombard Property Facilities Limited, the Royal Bank of Scotland. It has not been possible for the Council to secure this latest loan on the Magna Centre property, although that is what happened when the car park land was released. The organisations (involved in the inter-creditor deed) have changed over the years: eg: Yorkshire forward was abolished by the coalition Government.

(8) Councillor Reynolds asked : why are the other two partner organisations not providing any funding ?

Response – (from both Councillor Hoddinott and the Finance Manager) the Council has had discussions with the two partners, but still does not know the reasons why. Councillor Hoddinott repeated that the Council, as the lead partner, must do what it thinks is right.

(9) Member of the Overview and Scrutiny Management Board, Councillor C. Vines asked : why are there no reports, nor minutes of the meetings between the Council and the two partner organisations ? Will the two partners be making any financial contributions to this (loan) ? Why is this Council carrying the whole burden ?

Response – The Finance Manager explained that informal discussions had taken place and that minutes had not been taken. However, there are minutes taken of all meetings of the full Magna Trust Board.

(10) Councillor Cowles – asked whether, in the event that the Magna Trust's business continues, will all of the three partner organisations receive dividends and/or a share of the profits ?

Response – The Finance Manager explained that, as a registered charity, the Magna Trust did not allocate dividends, nor make any profit-sharing arrangements.

(11) Councillor Cowles – asked why is it taking such a long time to obtain the report of the independent consultants ?

Response – Councillor Hoddinott explained that the procurement process does take time, but acknowledged that the Council needs to have the matter resolved as soon as possible, so as to make a decision (about the deferred £250,000 loan); three months (to receipt of the independent consultants' report) is the target, but ideally the matter needs to be sorted out sooner than that.

The next section of this Scrutiny meeting included further questions to the Deputy Leader and to the Councillors making the call in request and also a general debate and consideration of the call in of the Council's proposed additional loan to the Magna Trust, by Members of the Overview and Scrutiny Management Board. Issues raised and discussed and further comments made were:-

(A) Councillor Steele – referred to the information, requested earlier in the meeting by Councillor Reynolds, about the number and type of jobs at the Magna Centre.

Response – the Finance Manager confirmed that a written response will be provided, later today, for all Elected Members present at this meeting.

(B) Councillor Wyatt – referred to the grant funding provided in the past to keep the Magna Centre in business; the report (to Cabinet, 4th February 2015) mentions the loans being repaid with interest at the end of the financial year, at the Bank of England base rate plus two per-cent; therefore, the Council is getting its money back, with interest; and then the loan is immediately renewed for a further year.

Response – The Finance Manager confirmed the details included within the report to the Cabinet : £195,000 is currently outstanding on the long term loan (with interest “rolled up”) and yes, there are annual repayments of the loans, with interest and the loan is advanced again for the following financial year. The Council does not provide a direct subsidy to the Magna Trust; all financial support is in the form of loans, which the Magna Trust pays back with interest.

(C) Councillor Wyatt questioned that the Council cannot assume that the Magna Trust business must definitely continue ?

Response – The Finance Manager confirmed that the intention is for this Council to reduce its interest (in the Magna Centre) and the Magna Trust must set up a plan and pump funds back into the business.

(D) Councillor Steele questioned whether there was a specific timescale for that objective ?

Response – The Finance Manager replied that the Magna Trust's forthcoming business plan should indicate the probable timescale.

(E) Councillor Wyatt asked whether the Magna Trust currently has any money to re-invest in the business ? The arrangements for the inter-creditor deed are very complicated and the Council had attempted to simplify that matter several years ago. Why is this process taking so long ?

Response – The Finance Manager stated that the car park land had been released from inter-creditor deed, in a process lasting nine months and involving Government Departments searching for the necessary documents. Now that those contacts (with Government Departments) are in place, the Council is able to proceed with the wider deed settlement. The agents for the Magna Trust are fully briefed and are acting for the Trust in this matter.

(F) Councillor C Vines asked who paid the legal fees in respect of the release of the car park land ?

Response – The Finance Manager stated that the Magna Trust had funded those legal costs.

(G) Councillor C Vines stated that it wasn't a complicated task to find the ownership of land, as he had found the names of Lombard Property Facilities Limited (2009) and the Alliance and Leicester bank (2006) with relative ease.

Response – the Finance Manager confirmed that Lombard Property Facilities Limited and the Alliance and Leicester bank are both parties to the inter-creditor deed; there are also other parties to this deed. Councillor Hoddinott also referred to Yorkshire Forward's previous involvement, although that organisation no longer exists.

The Chair invited the Deputy Leader and the call in sponsors to sum-up their respective cases.

Councillor Hoddinott – summing-up, on behalf of the Cabinet

The discussion at this meeting has highlighted the complexity of this matter and therefore the need for the Council to consult with an 'outside expert'. Various loans have been made to the Magna Trust, using public money. The Council must make an informed decision and must therefore obtain that independent expertise and opinion. The Magna Trust's business plan will be submitted to this Council and the Council does not yet know the complexity and diversity of the plan's eventual proposals. The intention is to secure repayment of the remaining £195,000 of the long-term loan. As soon as the Magna Trust's business plan has been received, the services of an independent consultant will be commissioned, if such action is deemed to be necessary. That action involves incurring costs in the short-term, in order that the Council may make the correct decision eventually. The information and opinion, both from the business plan and from the independent consultants, are needed, together with assurances about the future of the Magna Trust's business, before the Council will consider making any further loans.

Councillor C Vines, summing-up, on behalf of the call in sponsors

The Council should receive and study the Magna Trust's business plan in the first instance and not provide any more money (loans) to the Magna Trust, including the deferred £250,000 loan. The examination of the business plan must be undertaken first of all.

Councillor Hoddinott clarified that that is the decision the Council is now making.

Councillor C. Vines stated that the call in sponsors are clear that this Council should not pay for independent consultants and that the Magna Trust must prepare and fund its own business plan.

Councillor Steele stated that the Magna Trust will provide the business plan and that this Council will commission the independent consultants only if it is deemed to be necessary.

At this point in the meeting, the precise wording of the decision of the Cabinet meeting was clarified (Minute No. 141 of the meeting of the Cabinet held on 4th February, 2015).

The Finance Manager confirmed that, as a consequence of the decision made by the Chief Executive on 16th January, 2015, in accordance with her delegated powers, to provide Magna with an immediate additional £100,000 loan facility, the Magna Trust has already drawn £75,000 of that amount.

Councillor C. Vines again asked who would be paying for preparation of the Magna Trust's business plan ?

Councillor Hoddinott repeated the previous answers that the Magna Trust will pay for and prepare its own business plan.

Councillor Reynolds stated that, although the Cabinet may ultimately make a decision, there should be no 'wriggle room' and all Elected Members should be able to read the contents of the Magna Trust's business plan.

Councillor Hoddinott explained that officers will eventually implement the decision of the Cabinet.

At the conclusion of discussion and summing-up, the Chair stated that there were three options available to the Overview and Scrutiny Management Board:-

- : whether there are exceptional grounds sufficient to refer the call in request to the Council;
- : to support the call in request and refer the decision back to the Cabinet for reconsideration by the Executive; and
- : not to support this call in request, in which case the Cabinet decision proceeds to implementation.

After consideration of and discussion about the call-in of the decision of the Cabinet, the Members of the Overview and Scrutiny Management Board decided, by majority vote, that they had no further concerns to raise about this matter and did not wish to refer the call in request to a meeting of the Council, nor to refer the matter back to the Cabinet.

Resolved:- That the call-in request in respect of the Magna Trust Loan Renewal (Minute No. 141 of the Cabinet meeting of 4th February, 2015) is not supported.