

## APPENDIX 5 - TERMS OF REFERENCE

### Call-in the Cabinet member decision: E2692

#### Introduction

A single Cabinet Member decision was taken by Cllrs Bellotti and Crossley on the 2<sup>nd</sup> September 2014, to agree that:

1. In principle to make the loan of £500K into the Wilmington Farm Solar Array, subject to due diligence;
2. And to AUTHORISE the Divisional Director for Strategy & Performance, in consultation with the Cabinet member for Resources, to authorise the loan once satisfied that due diligence has been completed and subject to relevant terms and conditions.

On 10<sup>th</sup> September 2014 a call-in notice was received, signed by 10 Councillors, objecting to this decision. A copy of the call-in request is attached at Appendix 3 of the formal agenda papers. The call-in petitioners are concerned:

- About the lack of opportunity for Councillors to democratically scrutinise this decision, particularly given the unique nature of this loan/investment by the Council.
- That, given the large sum involved and unique nature of the loan, the Council's due diligence procedures have not been undertaken before the Cabinet Member and Leader took this decision. We believe it would have been prudent for the Council to have undertaken due diligence prior to presenting the report to the Cabinet Member and Leader in order that the Cabinet Member and Leader could be aware of all the facts before taking the decision to agree the in-principle loan.
- That, as currently proposed, the loan represents a high-risk investment for the Council at a relatively low rate of return when compared to other potential investments.
- That it is unclear within the Cabinet report what the actual value is of the asset against which the loan is proposed to be secured, and that this asset could have a significant depreciation rate.
- That it is unclear why it is necessary for the Council to make this loan, as opposed to the loan being provided on the private open market.
- That other options for the use of the Council's Green Investment and Jobs Fund (such as those which provide greater job creation opportunities or support residents in reducing carbon emissions) have not been fully explored and presented in the Cabinet report so that a proper judgment can be made of the best allocation of this fund.

- That it is unclear from the Cabinet report exactly how many local jobs, and in particular full-time permanent jobs, would be directly created by the Solar Farm, particularly given that the loan is being made using an allocation from the Council's 'Jobs Fund'. We would be concerned if such a large proportion of the Green Investment and Jobs Fund (50%) were used for a project which benefited a relatively small number of B&NES residents, particularly in terms of job creation.

## Relevant PDS Panel

The 'call-in' request has been referred to Bath & North East Somerset Council's Resources Policy Development & Scrutiny Panel to review the decision.

## Call-in Meeting

At the Panel meeting on 29<sup>th</sup> September 2014 the Panel will investigate and determine the matter. They will assess in detail the reasons for the Cabinet decision and consider the objections stated in the call-in notice via a range of information from Councillors, Officers and members of the public (further details below).

## Objective

The objective of the Call-in review is to determine whether or not the resolution made by the Cabinet about the solar array loan

- Be referred back to the Cabinet for reconsideration [**'Uphold' the call-in**]
- Proceed as agreed by Cabinet [**'Dismiss' the call-in**], or
- Be referred to Full Council to undertake the role of the Panel [*the ultimate decision would still remain with the Cabinet*].

## Method

To achieve its objective, the Panel will investigate the original decision and the objections stated in the call-in notice. The Panel will hear statements from members of the public who have registered to speak about both the substance and processes behind the decision. Public statements will be limited to 3 minutes per speaker. It will also require attendance and/or written submissions from:-

- Representative Councillor(s) for the call-in request - Cllr Richardson
- Lead Cabinet Member – Cllr. Bellotti and service officers

## Outputs

The Panel's view and supporting findings will be made publicly and will include:

- Minutes & papers from public Panel call-in meetings.
- A summary note will be provided, setting out the result of the call-in meeting

## Constraints

- **Timescales.** The Panel must hold its initial meeting within 14 working days to consider the call-in request. The Panel has a total of 21 working days to reach its decision.
  - Initial Public Meeting must be held by 30<sup>th</sup> September 2014 [14 working days from receipt of validated call-in request]
  - If meeting adjourned, second public meeting must be held by 9<sup>th</sup> October [21 working days from receipt of validated call-in request]
  - If referred directly to Cabinet, a response must be received by 13<sup>th</sup> October [10 working days from date of 1<sup>st</sup> meeting]
  - If adjourned and then referred to Cabinet, a response must be received by 23<sup>rd</sup> October [10 working days from date of 2<sup>nd</sup> meeting]
- **Resources.** The call-in process must be managed within the budget and resources available to the Panel.
- **Council Constitution.** Part 4E, Rule 13 requires that “*Where an Overview and Scrutiny Panel makes a recommendation that would involve the Council incurring additional expenditure (or reducing income) the Panel has a responsibility to consider and / or advise on how the Council should fund that item from within its existing resources*”. Section 3.1 of the cover report (formal agenda papers) provides further explanation.