

## Bath & North East Somerset Council

MEETING:	Economic and Community Development Policy Development and Scrutiny Panel
MEETING DATE:	5 <sup>th</sup> December 2011
TITLE:	Call-in of decision E2328 'Improving Access to Superfast Broadband in B&NES- the Broadband Deliver UK option'
WARD:	ALL

### AN OPEN PUBLIC ITEM

#### List of attachments to this report:

Appendix 1 Decision Register Entry for E2328

Appendix 2 Accompanying Report for the Decision from Cabinet Meeting on 9<sup>th</sup> November

Appendix 3 Call-in Request verified on Monday 21<sup>st</sup> November

Appendix 4 Call-in Guidance Note

*Appendix 5 Suggested Terms of Reference for the Call-in (to follow)*

## 1 THE ISSUE

- 1.1 Under the Council's Constitution, any 10 Councillors not in the Council's Cabinet may request that a Cabinet or Single Member Decision made but not yet implemented be reconsidered by the person or body who made it. This is called a "call-in" and has the effect of preventing the implementation of the decision pending a review of the Decision by a Policy Development and Scrutiny Panel.
- 1.2 This report sets out the call-in by 14 Councillors of a Cabinet decision relating to the decision not to prepare a joint broadband plan with Bristol and South Gloucestershire under the terms of the Government Broadband UK offer. The role of the Panel is to consider the issues raised by the call-in and to determine its response.

## 2 RECOMMENDATION

### THE PANEL IS ASKED TO:

- a) Consider the call-in request received (refer to Appendix 3).

- b) Approve the Terms of Reference of the Call-in which will be prepared after consultation with the Chair of the Panel (Appendix 5) subject to any further comments received from Panel members (as in paragraph 6.2 below).
- c) Decide if it requires any further information to enable it to make a determination of the call-in request and, if so, request this information and any contributions that will assist the Panel in determining the call-in either at this meeting or at a further meeting (e.g. from the Cabinet; Councillor(s) representing the call-in signatories; and any other internal or external contributors required by the Panel).
- d) Decide whether it will reach a conclusion about whether to uphold or dismiss the call-in; or refer the matter to the Council itself to undertake the role of the Panel, at this meeting or if a further meeting is required.
- e) If a further meeting is required to hear and determine the call-in, the Panel is asked to agree the date for this. The constitutional requirement is for that meeting to take place before the end of the 20<sup>th</sup> December 2011 (this timescale would not apply if the Panel decided to refer their role to the full Council).
- f) Undertake an examination of the call-in request in accordance with the proposed procedure set out in Appendix 5.
- g) Note that, following the examination, the Panel may either:
  - 2.1 i) Dismiss the call-in, in which case the decision shall take effect immediately; **OR**
  - 2.2 ii) Uphold the call-in and refer the decision back to the decision-makers for reconsideration, setting out why it has decided that the decision should be reconsidered.
  - 2.3 OR**
  - 2.4 iii) Refer the matter to Council to itself undertake the role of the Panel [NB: the ultimate decision still remains with the original decision makers].

### **3 FINANCIAL IMPLICATIONS**

- 3.1 The Panel should be aware that the Council's Constitution (Part 4E, Rule 13) requires that
- 3.2 “ *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 or the extent to which that should be seen as a priority for future years' budget considerations*”.
- 3.3 It is important, therefore, in its consideration of the call-in that the Panel gives consideration to the alternative options available to the decision-maker and the financial consequences of these.

### **4 BACKGROUND**

- 4.1 The decision which is now subject to a call-in request was a Cabinet Decision made at the Cabinet meeting on the 9<sup>th</sup> November 2011 and published on Weekly List on 11<sup>th</sup> November 2011 (Appendix 1) following consideration of the officer report (Appendix 2 and 2a).
- 4.2 The Call-in request was received on 17th November and validated 21<sup>st</sup> November. The Council Solicitor, on behalf of the Chief Executive, has validated the call in and confirms that it conforms to constitutional requirements in terms of time of receipt and number of Members validly subscribing to it. Appendix 3 sets out the reasons for the call-in request.

### **5 PROCESS**

- 5.1 Appendix 4 sets out the constitutional rules relating to the call-in process. In short, the Panel must EITHER:
- a) Dismiss the call-in, in which case the decision shall take effect immediately; OR
  - b) Refer the decision back to the decision-makers for reconsideration, setting out why it has decided that the decision should be reconsidered; OR
  - c) Refer the matter to Council to itself undertake the role of the Panel [NB: the ultimate decision still remains with the original decision maker].
- 5.2 If the Panel chooses option (b) above, the Constitution requires the decision-maker to reconsider the matter within ten working days from the conclusion of the PD&S Panel review meeting(s), and they may amend the decision or confirm the original decision, giving their reasons in either case. If the panel chooses option (c) these timescales would not apply.

### **6 ASSESSING THE CALL-IN REQUEST**

- 6.1 The Terms of Reference (Appendix 5- to follow) will indicate the suggested scope of the Call-in. This will outline the information and contributions the Panel is advised to consider in order to determine the call-in. It will have been prepared in consultation with the Chair. Panel members are invited to comment on the terms

of reference and any changes they request will be taken into account in an updated version which will be circulated at the meeting.

- 6.2 The Policy Development and Scrutiny Panel Chairs have approved guidance on the handling of call-in requests which make clear that there is a presumption that every validated call-in will proceed to a public meeting stage. The process for that meeting is set out in paragraph 7.1 below. If a second meeting of the Panel is required to complete the review it needs to take place no later than 20<sup>th</sup> December 2011 to comply with the constitutional requirement that the total period of overview and scrutiny involvement in a call-in must not exceed 21 working days.

## **7 SUGGESTED FORMAT FOR THE MEETING TO DETERMINE THE CALL-IN**

- 7.1 When the Panel determines the call-in, it is suggested that the following format be adopted:
- (1) Remind itself of the issues to be considered and consider any additional written information supplied.
  - (2) Hear from and ask questions of the Cabinet and Lead (or other agreed) Officers.
  - (3) Hear from and ask questions of Councillor(s) representing the call-in signatories.
  - (4) Hear from and ask questions of any appropriate external contributors (a “panel” style contributors` session is suggested).
  - (5) Discuss and draw conclusions from the written and oral information presented.
  - (6) Consider and formulate the Panel’s determination of the call-in.

## **8. CONSULTATION**

8.1 This report has been prepared following consultation with the Chair and Vice Chair of the Policy Development and Scrutiny Panel.

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<b>Background papers</b>	<i>None</i>
<b>Please contact the report author if you need to access this report in an alternative format</b>	