

Appendix 5 - Terms of Reference

Call-in of the Cabinet decision: E3191

Introduction

A single member Cabinet Decision was made on the 8th January 2020 resolved as set out below:

2.1 The Cabinet Member agrees to Delegate to the Head of Estates the authority for the completion of the transfer (as a Community Asset Transfer) of the asset at less than best consideration.

Note that the transfer of the asset will be in compliance with the statutory responsibilities under S123 Local Government Act 1972

2.2. The rationale for the decision was the provision of community benefits

On the 22nd January 2020 a call-in notice was received, signed by 9 Councillors, objecting to this decision.

This relates to the proposed Asset Transfer Land at North Parade Road to the Bath Cricket Club at Less Than Best Consideration' taken on 8 January 2020 by the Cabinet Member for Resources for the following reasons:

1. There has been no opportunity for Elected Members to scrutinise the proposals.
- 2. The report was inadequate, lacked information and did not demonstrate how we came to this recommendation¹.**
3. During the planning process Members were not made aware that the development was dependent upon the acquisition of a strip of land owned by Bath & North East Somerset Council.
4. Lack of information relating to the live planning application (19/04142/COND) this concerns discharge of condition 5, access to the site (over the land to be transferred) which is strenuously opposed by the Highways Team as it involves closing North Parade to allow heavy vehicles onto the site. There is absolutely nothing on the council's website to indicate that the original planning application was controversial, partly over the question of access but there are 201 documents under 17/04338/FUL relating to discharge of other conditions , consultants' reports etc.
5. There is no recognition of the fact that the chief beneficiary will be the developer of the luxury student hostel.

¹ The Council Solicitor, in consultation with the Chief Executive, has validated the call in requests for reasons 2, 8 and 9.

6. If the planning Committee had been made aware of this, this may have had an impact on the decision that was made.
7. The Developer would have gone into this application knowing that this piece of land was required. Therefore would have made a provision in its budget for it.
- 8. The report gives insufficient justification as to why this Council is disposing of this land at less than best consideration.**
- 9. The report gives no clear way of measuring the supposed community benefits so it will be impossible to judge in the future whether these benefits have been delivered.**
10. We do not know when it was discovered that the development was dependent on this piece of land or who authorised the negotiations with the developer.
11. This Administration pledge to work with local communities so they can have a greater say and take more responsibility for what goes on in their area and address the issues that are most important to them. We want to listen to the views of our residents and partners and ensure that the council is operating transparently.' We believe that this collaborative working can't take place until there is more transparency in decision making.

Relevant PDS Panel

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

Call-in Meeting

At the Panel meeting on the 10th February 2020 the Panel will investigate and determine the matter. They will assess in detail the reasons for the Cabinet decision and consider the objections, **(2, 8, and 9)** 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 Members should:-

- Be referred back to the Cabinet for reconsideration [**'Uphold' the call-in**]
- Proceed as agreed by the 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 for reasons 2, 8 and 9.** 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 or any variation proposed by the Chair. It will also require attendance and/or written submissions from:-

- Representative Councillor(s): Cllr Colin Blackburn
- Lead Cabinet Member – Cllr Richard Samuel (Cabinet Member for Resources) and key 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

The Panel will only address questions from the validated point within the call-in notice.

- **Timescales.** The Panel must hold its initial meeting within 14 working days of the call-in being verified 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 **11th February 2020** [14 working days from receipt of validated call-in request]
 - If meeting adjourned, second public meeting must be held by the **20th February 2020** [21 working days from receipt of validated call-in request]
 - If referred directly to the Cabinet, a response must be received by the **24th February 2020** [10 working days from date of 1st meeting]
 - If adjourned and then referred to the Cabinet, a response must be received within 10 working days from date of 2nd meeting, **4th March 2020**.
- **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.