

CALL-IN SUB-COMMITTEE MINUTES

17 JUNE 2019

Chair: * Councillor Angella Murphy-Strachan

Councillors: * Richard Almond * James Lee (2)
* Jean Lammiman (1) * Natasha Proctor

In attendance: Keith Ferry Minute 6
(Councillors) Paul Osborn Minute 6

* Denotes Member present
(1) and (2) Denote category of Reserve Members

1. Attendance by Reserve Members

RESOLVED: To note the attendance at this meeting of the following appointed reserve members:

Ordinary Member

Councillor Chloe Smith
Councillor Norman Stevenson

Reserve Member

Councillor James Lee
Councillor Jean Lammiman

2. Declarations of Interest

There were no declarations of interest.

3. Minutes

RESOLVED: That the minutes of the meeting held on 5 February 2018 be taken as read and signed as a correct record.

4. Appointment of Vice-Chair

It was moved by Councillor Lee and seconded by Councillor Proctor that Councillor Smith be elected Vice-Chair for the Municipal Year 2019/20. On being put to the vote the motion was declared carried.

5. Protocol for the Operation of the Call-In Sub-Committee

The Chair drew attention to the document 'Protocol for the Operation of the Call-In Sub-Committee'. She outlined the procedure to be followed at the meeting, and the options open to the Sub-Committee at the conclusion of the process.

In accordance with Committee Procedure Rule 46.5, a notice seeking to invoke the call-in procedure must state at least one of the following grounds in support of the request for a call-in of the decision:

- a) inadequate consultation with stakeholders prior to the decision;
- b) the absence of adequate evidence on which to base a decision;
- c) the decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework;
- d) the action is not proportionate to the desired outcome;
- e) a potential human rights challenge;
- f) insufficient consideration of legal and financial advice.

She informed the Sub-Committee that the grounds a), b), c) and f) had been cited on the Call In notice, and this had been deemed to be valid for the purposes of Call-in.

Referring to paragraph 8 of the Protocol, the Legal Adviser stated that the Sub-Committee, having considered the grounds for the call-in and the information provided at the meeting, may come to **one** of the following conclusions:-

- (i) that the challenge to the decision should be taken no further and the decision be implemented;
- (ii) that the decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework and should therefore be referred to the Council. In such a case the Call-in Sub-Committee must set out the nature of its concerns for Council; or
- (iii) that the matter should be referred back to the decision taker (i.e the Portfolio Holder or Executive, whichever took the decision) for reconsideration. In such a case the Call-in Sub-Committee must set out the nature of its concerns / reasons for referral for the decision taker/Executive.

RESOLVED: That the Call-In would be determined on the basis of the following grounds:

- a) inadequate consultation with stakeholders prior to the decision;
- b) the absence of adequate evidence on which to base a decision;
- c) the decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework; and
- d) insufficient consideration of legal and financial advice.

6. Call-in of the Cabinet Decision - (30 May 2019) - Harrow Strategic Development Partnership

The Sub-Committee received the papers in respect of the call-in notice submitted by 11 Members of the Council in relation to a decision made by the Cabinet on 30 May 2019, setting out a process to procure a Strategic Development Partner to assist with the delivery of a number of the Council's core strategic development sites within the Regeneration Programme.

The Chair advised the Sub-Committee on the suggested order of proceedings and reminded members of the timings allowed for submissions and questions. The Chair then invited the representative of the signatories to present his reasons for the call-in.

The representative began by explaining that he was not calling in the decision to develop a Partnership; the call-in was more concerned with the shortcomings in the processes that had been followed to reach this decision as set out in the Call-in notice. The representative went on refer to the specific reasons for the call-in and made a number of points with regard to each of the grounds as follows:

Inadequate consultation with stakeholders prior to the decision

Given that that the proposals were a significant departure from previous plans there was a reasonable expectation that further consultation would take place with residents or stakeholders. The report however only refers to consultation carried out 5 years ago. It was also disappointing that the Opposition had been denied an opportunity to discuss suggestions and concerns so that a cross party consensus to what would be a long term commitment could be secured.

The absence of adequate evidence on which to base a decision

The report includes three sites but specifically excludes the Greenhill Way site. No explanation is provided for this exclusion and no financial assessment is given about the site.

The decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework

The decision sets the Council on a path that may result in expenditure outside the current budget framework set by Full Council in February 2019. Any changes to this framework would require the approval of Full Council.

Insufficient consideration of legal and financial advice.

The report does not address the financial implications of the three schemes. Nor does it provide financial evidence to support the preferred site for the New Civic Centre.

The representative concluded his presentation by saying that he was disappointed that he had found it necessary to call-in the decision but felt that it was important for the Cabinet to get things right from the beginning given the implications for ratepayers for the next 20/30 years.

Responding to each of the grounds for the call-in the Portfolio Holder for Planning, Regeneration and Employment made the following points:

Inadequate consultation with stakeholders prior to the decision

Further consultation was not appropriate or necessary at this stage as the decision being sought was to agree a framework and commence a procurement exercise. Further consultation would be carried out once the exercise had been completed and the delivery mechanism set up.

The absence of adequate evidence on which to base a decision

There was no need for the report to include a financial assessment of sites, including the Greenhill Way site as, to emphasise the point made above, the decision being sought was to commence a procurement process and not to consult on sites at this stage.

The decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework

As the report in paragraph 9 - Financial Implications – made clear the cost of the procurement exercise would be contained within the budget agreed by Full Council to fund the revenue elements of the Regeneration Programme. The decision was not therefore contrary to the budget framework.

Insufficient consideration of legal and financial advice.

The business cases for the three schemes and financial evidence to support the preferred site for the New Civic Centre were not relevant in the context of seeking a decision to commence a procurement exercise.

Responding to questions from members of the Sub-Committee the Portfolio Holder made number of points including the following:

- Consultation had not taken place with stakeholders for the reason given earlier but further consultation would take place once the delivery vehicle had been set up;

- The outcome of the procurement exercise would be included in a report due to be submitted to Cabinet in April 2020 and this report would also seek a decision on the appointment of a Strategic Development Partner;
- The advantages of developing a Strategic Development Partnership over other delivery mechanisms were set out in paragraph 2.9 of the report and it would be premature to select a partner until the procurement exercise had been completed and a report submitted to Cabinet;
- Once a partner had been selected and as Section 9 of the report indicated the future costs would be assessed and if any adjustments to the revenue budget or capital programme were required then recommendations would be made to Full Council via Cabinet as required under the Budget Framework;
- As in most ventures there would be risks but these would be identified as part of the due diligence process and the intention was for the Council and selected partner to share them;
- The three sites referred to in the report had been selected following a financial assessment of 58 sites;
- The financial assessments had not been included in the report as they were not relevant to the proposal to start a procurement exercise;
- The Greenhill Way site had been excluded at this stage for the reason stated in paragraph 2.5 of the report but could be included at a later stage;
- The selection of the Peel Road site for the new civic centre would contribute to the wider regeneration of Wealdstone and the decision of the police to build there vindicated this selection;
- As the recommendations in Section 1 and paragraph 2.3 made clear the report was seeking the Cabinet's agreement to procure a Strategic Development Partner and nothing more; and
- A number of key decisions directly relating to the procurement exercise had already been taken as set out in paragraph 3.3 of the report.

On being asked to sum up the representative of the signatories reiterated a number of points:

- That the consultation was inadequate;
- No evidence had been provided to justify the selection of the Peel Road site for the new civic centre over the Greenhill Way site;

- The business cases for the three sites including the Greenhill Way site, should have been included in the report;
- To attract attention to the procurement process as much information as possible needed to be in the brief including the business cases for all four sites obviating the need for bidders to rebid in the event of a decision subsequently being taken to add a site; and
- The budgetary implications had not been assessed let alone included in the Budgetary Framework contrary to the Constitution.

The representative concluded by stressing the importance of getting the process right from the beginning. He estimated that the proposal would add £16m a year to the Council's debt which would double if things went wrong. The shortcomings in the decision taken by the Cabinet to initiate the procurement process were clear to see and he urged the Sub-Committee to uphold the grounds for the Call-in and refer the issue back to Cabinet for reconsideration.

The Portfolio Holder concluded by saying that there were no grounds for upholding the call-in. The report was about the procurement exercise, setting up a Strategic Development Partnership and selecting a partner. It was not about specific sites. No consultation was therefore necessary. The costs could be met from the current budget agreed by Full Council so no decision had been taken contrary to the Budget Framework. The decision had also been made having regard to the legal and finance advice given in the report. He therefore urged the Sub-Committee to take no further action thus allowing the decision to be implemented without further delay.

The Sub-Committee adjourned from 7.55 pm to 9.15 pm for deliberations.

Councillor Jean Lammiman asked for her objection to the Chair leaving the room to be recorded.

RESOLVED: That the decision of Cabinet be referred back in on ground 2) the absence of adequate information on which to base a decision be upheld as there was a reasonable expectation that the financial assessments carried out in 2014 would be updated and the inclusion of these updated assessments would not only have added transparency to the decision making process, it would also have helped to explain why the Greenhill Way site had been excluded.

The following grounds for call-in all not be upheld.

Inadequate consultation with stakeholders prior to the decision.

- 3) The decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework with the budget framework.
- 4) Insufficient consideration of legal and finance advice.

Reasons: Further consultation not necessary at this stage. The costs are being met from the existing budgetary provision. Legal and financial advice had been provided and considered.

(Note: The meeting, having commenced at 6.30 pm, closed at 9.20 pm).

(Signed) COUNCILLOR ANGELLA MURPHY-STRACHAN
Chair