

Report for: Special Overview and Scrutiny Committee 6th December 2018

Title: Monitoring Officer and Section 151 Officer's Report on the Call-In of a Decision taken by the Cabinet on 13th November 2018 relating to the Tangmere and Northolt blocks on Broadwater Farm

Report authorised by : Bernie Ryan, Monitoring Officer

Lead Officer: Raymond Prince, Assistant Head of Legal Services and Deputy Monitoring Officer

Ward(s) affected: N/A

**Report for Key/
Non Key Decision:** N/A

1. Describe the issue under consideration

1.1 To advise the Overview and Scrutiny Committee on the call-in process, and in particular whether the decisions taken by Cabinet on 13th November 2018 in relation to the Tangmere and Northolt blocks on Broadwater Farm and an associated Rehousing and Payments Policy and Local Lettings Policy, is within the Council's budget and/or policy framework.

2. Cabinet Member Introduction

N/A

3. Recommendations

3.1 That Members note:

- (a) The Call-In process;
- (b) The advice of the Monitoring Officer and Section 151 Officer is that the decision taken by Cabinet was inside the Council's budget and policy framework

4. Reasons for decision

4.1 The Overview and Scrutiny Committee (OSC) is expected to take its own decision with regard to whether a called-in decision is outside or inside the budget/policy framework when considering action to take in relation to a called-in decision.

5. Alternative options considered

N/A

6. Background information

Call-in procedure rules

- 6.1 Once a validated call-in request has been notified to the Chair of OSC, the Committee must meet within 10 working days to decide what action to take. In the meantime, all action to implement the original decision is suspended.
- 6.2 If OSC Members determine that the original decision was within the policy/budget framework, the Committee has three options:
- (i) to not take any further action, in which case the original decision is implemented immediately
 - (ii) to refer the original decision back to Cabinet as the original decision-maker. If this option is followed, the Cabinet must reconsider their decision in the light of the views expressed by OSC within the next five working days, and take a final decision
 - (iii) to refer the original decision on to full Council. If this option is followed, full Council must meet within the next 10 working days to consider the call-in. Full Council can then decide:
 - to either take no further action and allow the decision to be implemented immediately, or
 - to refer the decision back to the Cabinet for reconsideration. The Cabinet's decision is final.
- 6.3 If the Overview and Scrutiny Committee (OSC) determine that the original decision was outside the budget/policy framework, the Committee must refer the matter back to the Cabinet with a request to reconsider it on the grounds that it is incompatible with the policy/budgetary framework.
- 6.4 In that event, the Cabinet would have two options:
- (i) to amend the decision in line with OSC's determination, in which case the amended decision is implemented immediately.
 - (ii) to re-affirm the original decision, in which case the matter is referred to a meeting of full Council within the next 10 working days. Full Council would have two options:
 - to amend the budget/policy framework to accommodate the called-in decision, in which case the decision is implemented immediately, or
 - to require the decision-maker to reconsider the decision again and to refer it to a meeting of the Cabinet, to be held within five working days. The Cabinet's decision is final.

The Policy Framework

- 6.5 The Policy Framework is set out in the Constitution at Article 4 of Part Two (Articles of the Constitution) which I reproduced as follows:

“Policy Framework

These are the plans and strategies that must be reserved to the full Council for approval:

- Annual Library Plan
- Best Value Performance Plan
- Crime and Disorder Reduction (community safety) Strategy
- Development Plan documents
- Youth Justice Plan
- Statement of Gambling Policy
- Statement of Licensing Policy
- Treasury Management Strategy

Any other policies the law requires must be approved by full Council.

Such other plans and strategies that the Council agrees from time to time that it should consider as part of its Policy Framework:

- Housing Strategy”

- 6.6 The policy framework is intended to provide the general context, as set by full Council, within which decision-making occurs. In an executive model of local authority, the majority of decisions are taken by the executive – in Haringey’s case this being the Cabinet/Leader/Cabinet member. It is not expected that every executive decision taken should satisfy every individual aspect of the framework, but they should not be outside the framework. Case law also makes it clear that it would not be a proper use of a full Council approved plan or strategy to seek to make it a means for full Council to micro-manage what ought to be executive decisions.

The Budget Framework

- 6.7 The budget framework is the 2018/19 Budget and Medium Term Financial Strategy (MTFS 2018 19 – 2022/23) Report approved by Full Council at its meeting on 26th February 2018.
- 6.8 The policy and budget framework is intended to provide the general context, as set by Full Council, within which executive decision-making occurs. The general premise is that executive decisions must be within the scope of the policy and budgetary framework and should not be wholly inconsistent with it.

7. Current Call-In

- 7.1 On 23rd November 2018, a valid call-in request was received in relation to the Cabinet decisions of 13th November 2018 in relation to the Tangmere and Northolt blocks on Broadwater Farm. A copy of the Cabinet report dated 13th November 2018; the published draft minutes and the call-in request all form part of the published Agenda pack distributed to Members of the Overview and Scrutiny Committee, and so are not reproduced again here as appendices to this report.

7.2 The call-in request asserts that the decision was outside the policy or budget framework.

8. Monitoring Officer's Assessment

8.1 The Monitoring Officer's assessment is that the decision taken by Cabinet does fall inside of the Council's policy framework for the following reasons.

8.2 As detailed at paragraph 6.5 above, the Housing Strategy does form part of the Council's policy framework. However, the Broadwater Farm Rehousing and Payments Policy does not form part of the same framework. Further, and in any event, as the report of the Interim Director of Housing, Regeneration and Planning makes clear, there is no conflict between the two documents.

9. The Section 151 Officer's Assessment

9.1 The Section 151 Officer's assessment is that the decision taken by Cabinet does fall inside of the Council's budget framework for the following reasons.

9.2 The financial implications of the decisions taken by Cabinet were detailed in the November 2018 cabinet report.

9.3 The reason for call-in refers to the potential risk of having to repay GLA funding. Cabinet have not made any decisions relating to drawing down affordable housing grant from the GLA in relation to Tangmere and Northolt. The Council will only be able to access this funding after it has met a number of conditions, which will include it either being granted an exemption from the ballot requirements or it being determined that it has met the ballot requirements. There is therefore no risk that the Council will have to repay any capital funding linked to the ballot requirement, as the GLA will not give the Council any capital funding until this is resolved and this funding only starts to be paid when there is a start on site on the replacement homes.

10. Contribution to strategic outcomes

N/A

11. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance and Procurement

The Chief Finance Officer's comments are set out above.

Legal

The Monitoring Officer's comments are set out above.

Equality

N/A

12. Use of Appendices

13. Local Government (Access to Information) Act 1985

N/A