

Information/Discussion Paper

Overview and Scrutiny Committee

12 June 2017

Call in - designation of the current Springbank Ward as a Neighbourhood Area and Neighbourhood Forum

This note contains information to assist Members in dealing with this call in request.

1. Why has this come to scrutiny?

- 1.1 A call-in request was received from the Chairman of the Overview and Scrutiny Committee on 25 May 2017 relating to the decision made at Cabinet on 16 May 2017 regarding the designation of a Neighbourhood Area and Neighbourhood Forum in the current Springbank Ward. The request (attached as Appendix 1) was received within the call in period. The request was received by the Proper Officer, the Head of Paid Service, Pat Pratley in accordance with the procedures set out in Part 4D – Overview and Scrutiny Rules – Rule 14 (attached as Appendix 2). The Proper Officer agreed that it was a valid call in request.
- 1.2 Under the rules of call-in, the request must be considered at a meeting of the O&S committee within 10 working days. After consultation with the chair of O&S and the Leader and Cabinet Member, a date of 12 June was agreed.
- 1.3 Having considered the facts of the call-in and having received any representations from the member(s) who submitted the request and the decision maker, the options for O&S are set out in paragraphs 14.13 of the Rule 14 in the Constitution (attached as Appendix 2)

2. Summary of the Issue

- 2.1 Members are referred to the Cabinet report on the designation of the current Springbank Ward as a neighbourhood Area and Neighbourhood Forum which went to Cabinet on 16 May 2017 together with the (draft) minutes of that meeting and the decision made. These are attached as Appendices 3 and 4.
- 2.2 Members are also referred to the call in request attached as Appendix 1.

3. Summary of evidence/information

- 3.1 The Chair will invite Councillor Wendy Flynn to outline the reasons why she felt a call in was appropriate.

- 3.2 Members of O&S have requested the following witnesses to attend:

Cabinet Member Development and Safety – Councillor McKinlay
Development Manager Strategy – Phil Stephenson
Director of Planning – Tracey Crews

- 3.3 The witnesses have been advised of the potential line of questioning and this is attached as Appendix 5. These are intended to provide the broad line of questioning

to assist the witnesses in their preparation but members may wish to ask additional questions on the night.

4. Next Steps

4.1 The possible next steps for the committee are set out in detail in Appendix 2 of the Overview and Scrutiny rules 14.13.

In summary the options are to:

1. Support the decision
2. Make adverse comments on the process but not the decision itself in which case the decision can be implemented.
3. Propose an alternative decision or modifications and delay the implementation until those have been considered by Cabinet.
4. In exceptional circumstances refer the decision to Council for review or scrutiny

Appendices	1 – Call in request 2 – Rule 14 of the Council’s Constitution 3.– Line of questioning for the meeting 4 – Cabinet report – 16 May 2017 5 – Extract from the minutes of Cabinet (16 May 2017)
Background Papers	Cabinet report on an application submitted by West Cheltenham Neighbourhood Forum 6 and 13 December 2016 and the minutes of that meeting Cheltenham Borough Council - Agenda item - Application for designation of a Neighbourhood Area and Neighbourhood Forum by the West Cheltenham Neighbourhood Forum
Contact Officer	Rosalind Reeves, Democratic Services Manager, 01242 77 4937, rosalind.reeves@cheltenham.gov.uk
Accountability	Cabinet Member Development and Safety
Scrutiny Function	Overview and Scrutiny Committee

Calling-In Form

Please refer to the Overview and Scrutiny Rule 14 in the Council's Constitution for a full explanation of the call in process.

Please give the name(s) of the member(s) wishing to call in the item. If the member calling in is the Chairman of the Overview and Scrutiny committee then only their name is required.

Councillor	Tim Harman, Chairman of Overview and Scrutiny Committee
Councillor	
Councillor	
Councillor	

Which item do you wish to call-in?

Decision maker	Cabinet e.g. Cabinet/Cabinet Deputy/Officer under delegated powers	
Decision date	Item No	Title
16.5.17	6	Application for designation of a Neighbourhood Area and Neighbourhood Forum by Springbank Neighbourhood Forum

What is the reason for calling-in this item?

Call-in can only be requested where members have evidence which suggests that the decision maker did not take the decision in accordance with the principles set out in article 13 (decision making) of the Constitution.

Please give as much detail as possible - continue on a separate sheet if necessary.

Having been requested to call-in this item to the Overview and Scrutiny Committee, I am satisfied that Rule 13.1 (h) applies 'due consideration shall be given to all objections' on the grounds that

- An organisation is currently seeking to be designated and the area overlaps with the proposed area
- A previous application, having been refused, is in the process of submitting a subsequent application but is awaiting a response as to the grounds for refusal

Date/Time submitted: Thursday 25 May 2017 at 11.15am

Please deliver/email the completed form to democratic.Services@cheltenham.gov.uk and mark for the attention of the Proper Officer.

The form **must** be received by 4 pm on the 5th working day after the publication of the decision

All Councillors named on this form will receive written notification of the date and time of the Calling-In Committee meeting to consider this issue and you will be able to set out your concerns in more detail for the Committee's consideration.

OVERVIEW AND SCRUTINY RULES

RULE 14. CALL-IN

General Principles

- 14.1 Call-in is the exercise of the power of O&S Committee to review a decision in respect of an executive function that has been made but not yet implemented. Once called-in, the decision cannot be implemented other than in accordance with the call-in procedures set out in this Rule 14.
- 14.2 The following types of decision can be called-in: (i) Cabinet decision; (ii) Cabinet Member decision; (iii) Officer key decision; (iv) decision made under Joint Arrangements
EXCEPT that a decision to recommend to Council cannot be called-in.
- 14.3 A decision may be called in only once.
- 14.4 A request for call-in can only be made on the basis that the decision maker did not take the decision in accordance with one or more of the Principles of Decision Making as set out in Article 13 of the Constitution.

Procedure prior to call-in

- 14.5 When any decision is made by the Cabinet or a Cabinet Member or a key decision is made by an officer, or by a joint committee or officer under joint arrangements, notice of the decision shall be published including, where possible, by electronic means, and shall be available at the Municipal Offices normally within two working days of being made. Copies of all such decisions will be sent to all members of the Council at the same time as being published.
- 14.6 The notice in Rule 14.5 will bear the date on which it is published and will specify that the decision will come into force and may then be implemented, on the expiry of five clear working days after the publication of the decision, unless the decision has been called-in.

Procedure for calling-in

- 14.7 During the five clear working day period referred to in Rule 14.6, the Proper Officer shall call-in a decision for scrutiny by O&S Committee if so requested by its Chair or any four members of the Council, provided that full written particulars of the reason(s) for the call-in has been received by the Proper Officer by 4.30 p.m. on the fifth clear working day.
- 14.8 The Proper Officer shall immediately notify the decision maker that a call-in request has been received. The Proper Officer shall call a meeting of the O&S Committee to

be held on such date as he/she may determine, where possible after consultation with the O&S Chairman and, in any case, the meeting shall take place within a period of ten clear working days of the receipt by the Proper Officer of a valid call-in request or such longer period as agreed by both the decision maker and the member(s) requesting the call-in.

- 14.9 If O&S Committee does not meet in the period set out in Rule 14.8 the decision can be implemented immediately at the end of that period.
- 14.10 In the event of the member(s) submitting the request for call-in confirming to the Proper Officer in writing that the request is withdrawn, the decision can be implemented immediately.

Procedure for scrutinising the decision

- 14.11 The member(s) submitting the request for call-in will be expected to attend O&S Committee to explain their reasons for the call-in and the alternative course of action or recommendations they wish to propose regarding the decision making process.
- 14.12 The decision maker (represented by the Leader or Lead Member if it is a Cabinet decision and the committee chairman or vice-chairman if it is a joint committee decision) may be required to and shall be entitled to attend O&S Committee and respond to the request for call-in.
- 14.13 Having considered the facts of the call-in and having received any representations from the member(s) who submitted the request and the decision maker, O&S Committee may either:
- (a) Support the decision without qualification or comment, in which case the decision can be implemented immediately; or
 - (b) Make adverse comments (with reference to the Principles for Decision Making in Article 13) regarding the process for reaching the decision but take no adverse view on the decision itself, in which case the decision can be implemented immediately and the O&S Committee comments will be set out in a report to be considered by the decision maker; or
 - (c) Propose modifications to the decision or an alternative to the decision to achieve the same effect, in which case implementation of the decision shall be delayed until the decision maker has received and considered a report from O&S Committee and decided how to proceed; or
 - (d) In exceptional circumstances (to be determined by O&S Committee and recorded in the minutes) to refer the decision the decision to Council for review or scrutiny
- 14.14 O&S Committee may refer the call-in to a sub-committee or a STG for consideration prior to taking action under Rule 14.13 (b)-(d) and, if so, the following shall apply:

(a) O&S Committee shall meet to take its final decision on the call-in under Rule 14.13 not later than 20 clear working days from the date of the O&S Committee meeting arranged by the Proper Officer under Rule 14.8

(b) The member(s) who submitted the call-in and the decision maker (represented by the Leader or Lead Member in respect of a Cabinet decision and the committee chairman or vice-chairman in respect of a joint committee) may be required and shall be entitled to attend before the sub-committee or STG

14.15 On receiving a request from the member(s) who submitted the call-in within the 20 clear working day period set out in Rule 14.14 (a), the Proper Officer may extend that period by up to an additional 10 clear working days (potentially allowing up to 30 clear working days for O&S Committee to meet to take its final decision)

14.16 If O&S Committee does not meet to consider the call-in within the period set out in Rule 14.14 (a) or such extension to that period as is made by the Proper Officer under Rule 14.15, the decision can be implemented immediately at the end of that period or extended period.

Review and scrutiny by Council

14.17 Where O&S Committee decides to refer the call-in to Council under Rule 14.13 (d), Council must consider the matter at its next available meeting (other than an Annual or Annual and Selection Meeting) or, if the next available meeting is not due to be held within 15 clear working days of the O&S Committee meeting, at an Extraordinary Meeting to be convened by the Proper Officer within that time.

14.18 If Council does not meet to consider the call-in within the period set out in Rule 14.17 the decision can be implemented immediately at the end of that period.

14.19 If Council does meet to consider the call-in within the period set out in Rule 14.17 but defers consideration of all or part of the call-in to a future Council meeting, Council shall meet to make its final decision on the call-in within 60 clear working days of the receipt of the call-in under Rule 14.7. If Council does not meet to consider the call-in within that 60 clear working day period, the decision can be implemented immediately at the end of that period.

14.20 Having considered the facts of the call-in and any recommendations from O&S Committee and having received any representations from the member(s) who submitted the request and the decision maker, Council may either:

(a) Support the decision without qualification or comment, in which case the decision can be implemented immediately; or

(b) Make adverse comments (with reference to the Principles for Decision Making in Article 13) regarding the process for reaching the decision but take no adverse view on the decision itself, in which case the decision can be implemented

immediately and Council comments will be set out in a report to be considered by the decision maker; or

- (c) Propose modifications to the decision or an alternative to the decision to achieve the same effect, in which case implementation of the decision shall be delayed until the decision maker has received and considered a report from Council and decided how to proceed.

14.21 Where the call-in relates to a failure to comply with the Budget and Policy Framework Rules Council may, in addition to its powers under Rule 14.20:

- (a) amend the Budget or the Policy Framework to allow the decision to be implemented in compliance with the Budget and Policy Framework Rules,
- (b) authorise the decision to be implemented as a departure from the Budget or the Policy Framework.

Action by the decision maker following call-in

14.22 On receiving a report from O&S Committee or Council, the decision maker shall consider the report and any recommendations and report to the next available O&S Committee the outcome of that consideration.

14.23 Where O&S Committee or Council proposes modifications to or an alternative to the decision that was called in, the decision maker shall either:

- (a) Confirm the called-in decision without modification; or
- (b) Confirm the called-in decision with modification; or
- (c) Rescind the called-in decision, take the alternative decision proposed, or propose a new decision.

14.24 Where the decision maker is acting under delegated powers, they may refer the report or proposals from O&S Committee or Council to the delegator to take the actions under 14.9 and 14.20 instead of the decision maker.

Call-in and Urgency

14.25 Subject to Rule 14.26, call-in does not apply to an urgent decision as defined in Article 13.

14.26 In order to rely on Rule 14.25 the decision maker must:

- (a) Obtain the prior consent of the O&S Committee chairman to the decision being treated as urgent. In the absence of the chairman, prior consent may be given by, in order, the vice-chairman or the Group Leaders acting collectively; and

- (b) Request the Proper Officer to record in the decision, and notice by which it is made public, why in the opinion of the decision maker the decision is an urgent one and not subject to call-in.