

Cheltenham Borough Council

Cabinet

26 June 2017

Call-in of Cabinet Decision to approve the application for a Springbank Neighbourhood Area and Neighbourhood Forum made at Cabinet meeting on 15 May 2017

Report of the Overview and Scrutiny Committee

Accountable member	Councillor Tim Harman, Chair of Overview and Scrutiny Committee
Accountable officer	Tim Atkins, MD Place and Economic Development and the Lead Officer for the committee regarding this call in
Ward(s) affected	Springbank and others
Key/Significant Decision	No
Executive summary	<p>A call-in request (see Appendix 2) 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.</p> <p>A special meeting of the O&S Committee was held on 12 June 2017 to consider the call in and the draft minutes of that meeting are attached as Appendix 1.</p> <p>The O&S committee considered the facts of the call-in together with the evidence presented to them. They listened to the views of Councillor Wendy Flynn who had initially put the request to the chair of O&S that the decision be called in. They had the opportunity to question in detail the Cabinet Member Development and Safety and relevant officers.</p> <p>After some debate and after considering carefully their options under the Council's Constitution, the committee decided to refer the decision back to Cabinet asking them to reconsider it for the reasons set out in minutes of the meeting. In summary they felt there was inconsistency in the way the Cabinet had dealt with the applications for Springbank and West Cheltenham Forum and they hoped that if the decision was rescinded there would be an opportunity for both groups to come together and a more appropriate solution be reached which would bring the communities together.</p>
Recommendations	<p>The Cabinet is recommended:</p> <ol style="list-style-type: none">1. Consider the points made at the Overview and Scrutiny committee set out in the draft minutes in Appendix 12. Reconsider the decision taken by Cabinet on 15 May 2017.

Financial implications	<p>The financial implications of Cabinet's decision were set out in the Cabinet report of the 16 May 2017</p> <p>Contact officer: Sarah Didcote</p> <p>sarah.didcote@cheltenham.gov.uk, 01242 264125</p>
Legal implications	<p>Both applications are subject to a statutory requirement that they be determined by 27 June 2017.</p> <p>If the area designation application is not determined by that date the application must be determined as applied for. Approval of the applications would empower the forum to progress a neighbourhood development plan and/or neighbourhood development order for the area designated.</p> <p>Cabinet is required to have regard to the recommendations of the Overview and Scrutiny Committee taking them into account in determining the applications. Cabinet is not required to follow those recommendations.</p> <p>Contact officer: Michael Morgan, Planning Solicitor</p> <p>Michael.morgan@teWKesbury.gov.uk, 01684 272127</p>
HR implications (including learning and organisational development)	<p>The financial implications of Cabinet's decision were set out in the Cabinet report of the 16 May 2017.</p> <p>Contact officer: Julie McCarthy</p> <p>julie.mccarthy@cheltenham.gov.uk, 01242 264355</p>
Key risks	<p>Local authorities are required to provide assistance to parish councils and neighbourhood forums in the neighbourhood planning process. They must take decisions as soon as possible and within statutory time periods. If the Council does not act constructively and make decisions on time then there is a risk that it will fail its statutory duties.</p> <p>We understand officers will be advising Cabinet on the options available to them in reviewing this decision and the implications and any risks associated with them.</p>
Corporate and community plan Implications	Refer to Cabinet report 15 May 2017
Environmental and climate change implications	Refer to Cabinet report 15 May 2017

1. Background

- 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 A special meeting of the O&S Committee was held on 12 June 2017 to consider the call in.
- 1.3 The O&S committee considered the facts of the call-in together with the evidence presented to them. They listened to the views of Councillor Wendy Flynn who had initially put the request to the chair of O&S that the decision be called in. They had the opportunity to question in detail the Cabinet Member Development and Safety and the Development Manager. The Director of Planning was also present at the meeting to respond to any more management or strategic planning related questions. Legal advice was provided at the meeting by a solicitor from One Legal and the MD of Place and Economic Development attended as the Lead Officer for the committee.
- 1.4 After some debate and after considering carefully their options under the Council's Constitution, the committee decided to refer the decision back to Cabinet asking them to reconsider it for the reasons set out in this report and in the minutes of the call-in meeting attached as Appendix 1.
- 1.5 After some debate and after considering carefully their options under the Council's Constitution, the committee decided to refer the decision back to Cabinet asking them to reconsider it.

2. Reasons for recommendations

- 2.1 The reasons for the call-in were set out in the call-in request (Appendix 2) as it was felt that decision had not been made in accordance with one or more of the Principles of Decision making as set out in Article 13 of the Constitution.
- 2.2 The O&S committee explored these fully during their questioning and debate and the results are set out in the minutes of the meeting.
- 2.3 **In summary they felt there was inconsistency in the way the Cabinet had dealt with the applications for Springbank and West Cheltenham Forum and they hoped that if the decision was rescinded there would be an opportunity for both groups to come together and a more appropriate solution be reached which would bring the communities together.**

3. Alternative options considered

- 3.1 The options available to O&S were set out the O&S call in rules. O&S committee could have decided not to refer the matter back to Cabinet or advise that the decision went ahead but procedures were reviewed.

4. Consultation and feedback

- 4.1 A lengthy debate was held at the O&S committee and evidence heard from a variety of witnesses and this is all set out in the minutes of that meeting in Appendix 1 to this report.

5. Performance management –monitoring and review

- 5.1 Overview and Scrutiny Committee will review the outcome of consideration of this report by Cabinet. However committee does expect Cabinet to determine the matter before the deadline for considering the application of 27 June 2017.

Contact officer	Contact officer: Rosalind Reeves, Democratic Services Manager Rosalind.Reeves@cheltenham.gov.uk, 01242 77 4937
Appendices	<ol style="list-style-type: none"> 1. Draft Minutes of the O&S Call in meeting 12 June 2017 2. Call in request 3. Call in rules
Background information	<ol style="list-style-type: none"> 1. Report to O&S Call in meeting of 12 June 2017 2. Report and the minutes of Cabinet 15 May 2017 3. Report and minutes of Cabinet 6 and 13 December 2016