

## CALL-IN SUB COMMITTEE

23 MAY 2005

Chair: \* Councillor Mitzi Green

Councillors: \* Blann (1)  
\* Gate

\* Jean Lammiman  
\* Osborn

\* Denotes Member present  
(1) Denotes category of Reserve Member

[Note: Councillors Mrs Ashton, Burchell, N Shah and Thornton also attended this meeting to speak on the item indicated at Minute 55 below].

**PART I - RECOMMENDATIONS - NIL****PART II - MINUTES**49. **Appointment of Chair:**

**RESOLVED:** To note the appointment at the Special Meeting of the Overview and Scrutiny Committee on 16 May 2005 of Councillor Mitzi Green as Chair of the Sub-Committee for the 2005/06 Municipal Year.

50. **Attendance by Reserve Members:**

**RESOLVED:** To note the attendance at this meeting of the following duly appointed Reserve Member:-

Ordinary MemberReserve Member

Councillor Thammaiah

Councillor Blann

51. **Declarations of Interest:**

**RESOLVED:** To note that there were no declarations of interests made by Members in relation to the business transacted at this meeting.

52. **Arrangement of Agenda:**

**RESOLVED:** That all items be considered with the press and public present.

53. **Appointment of Vice-Chair:**

**RESOLVED:** That Councillor Jean Lammiman be appointed Vice-Chair of the Sub-Committee for the 2005/06 Municipal Year.

54. **Minutes:**

**RESOLVED:** That the minutes of the meeting held on 11 January 2005, having been circulated, be taken as read and signed as a correct record.

55. **Call-in of the Leader's Decision: Release of Restrictive Covenant, Brooks Hill:**

The Sub-Committee considered a decision of the Leader dated 4 May 2005, which determined that the Council would not object to the Lands Tribunal for the release of a restrictive covenant. Members received the notice invoking the call-in procedure, together with the record of the Leader's decision and the documentation sent to the Leader to inform his decision.

The decision had been called-in on three grounds: inadequate consultation with stakeholders prior to the decision, the absence of evidence on which to base a decision, and insufficient consideration of legal and financial advice.

A Member representing the signatories to the call-in notice explained the reasoning behind invoking the call-in procedure. The Sub-Committee was referred to paragraph 2.3 of the officer report on page 10 of agenda. Concern was raised that the report referred to consultation via the planning process. The Member did not accept that the planning process involved sufficient consultation. It was added that previous considerations of the Development Control Committee had not related to a change of use for the property.

The Member also felt that the issue should not have been dealt with through a decision of an individual Executive Member. Instead it was felt that the report should have been submitted to the Cabinet for decision. Another concern raised by the Member was the lack of information on which the decision was based. The Member felt that the report should have been included on the Cabinet agenda as a Part II item, which would have afforded an opportunity to incorporate a more detailed examination of the financial aspects of the Council's landholding and the implications of the decision. A Ward Councillor who was backbenching stated his concern about the lack of information available to the residents particularly given the contentious nature of the decision. The Ward Councillor noted that he had received a verbal briefing from officers that had failed to allay the concerns of the local residents.

In response, an officer explained that the decision was initially intended for the Portfolio Holder for Planning, Development and Housing. Following discussions between officers in Legal Services, it was judged that the decision did not fall under the terms of reference for the Portfolio Holder and that the Leader of the Council should instead make the decision. Both the Portfolio Holder for Planning, Development and Housing and the Leader stated that the issue was handled in the appropriate manner. The Sub-Committee were informed that, in the professional judgement of the officers, the release of the covenant would not have a negative impact on the Council's property holding. In response to a previous point, an officer noted that the financial implications of the decision did not lend itself to a more detailed report. An officer also clarified that under the Lands Tribunal procedure, an objector could be liable for a percentage of the applicant's costs if their conduct was deemed to be unreasonable.

Members of the Sub-Committee asked questions on a number of issues. The consultation process was highlighted as a central issue. An officer explained that after being notified of the application, he had discussed the issue with the Portfolio Holder and had also written or spoken to each of the Ward Councillors. Members were also informed that the Portfolio Holder had spoken to one of the Ward Councillors. The Ward Councillors subsequently distributed leaflets to local residents, after which the Portfolio Holder reported that he had received a large amount of correspondence from residents. The Portfolio Holder added that the Council had no obligation to consult with other landholders and that the consultation undertaken was sufficient for the purposes of the procedure. In response, a Ward Councillor agreed that the consultation might have been adequate but that courtesy and good practice should have directed further consultation with local residents. Following further discussion, it was established that the Lands Tribunal procedure did not oblige the Council to consult or consider the views of other landowners or local residents. Therefore the Portfolio Holder concluded that, having consulted with Ward Councillors, the Council had met its obligation to consult with the representatives of the area in question.

The Leader stated that he received all relevant information and read aloud a copy of an e-mail dated 25 April. It was agreed that a copy of the e-mail would be distributed to Members of the Sub-Committee. It was added that given the timescales involved, the Cabinet could not have considered the issue.

Whilst summarising their views about the grounds for call-in, some Members expressed concern over the lack of information. A Member stated that it would have been beneficial to receive a more detailed report demonstrating that the Council had nothing to lose by failing to lodge an objection. The Chair concluded by noting the Sub-Committee's concern that consultation in this case could have been widened and suggested that lessons should be learnt for similar decisions in the future.

**RESOLVED:** That the grounds for the call-in be rejected and the decision be implemented.

(Note: The meeting having commenced at 7.30 pm, closed at 8.53 pm)

(Signed) COUNCILLOR MITZI GREEN  
Chair