

CALL-IN SUB COMMITTEE

27 OCTOBER 2005

Chair: * Councillor Mitzi Green

Councillors: * Gate * Osborn
Jean Lammiman Thammaiah

* Denotes Member present

[Note: Councillor Arnold also attended this meeting to speak on the item indicated at Minute 60 below. Councillors Mark Ingram and Mrs Kinnear also attended this meeting to speak on the item indicated at Minute 61 below].

PART I - RECOMMENDATIONS - NIL**PART II - MINUTES**56. **Attendance by Reserve Members:**

RESOLVED: To note that there were no Reserve Members in attendance at this meeting.

57. **Declarations of Interest:**

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

58. **Arrangement of Agenda:**

RESOLVED: That (1) all items be considered with the press and public present; and,

(2) in accordance with the Local Government (Access to Information) Act 1985, the following agenda items be admitted late to the agenda by virtue of special circumstances and urgency detailed below:-

<u>Agenda Item</u>	<u>Reason</u>
5.(d) Advice from the Director of Corporate Governance	The Chair had requested that the Sub-Committee receive procedural advice from the Director of Corporate Governance.
6. Call-in of Environment and Transport Portfolio Holder Decision: Roxeth Green Avenue, South Harrow	A valid call-in notice for this decision was only received after the issue of the main agenda. Members are requested to consider this item, in order to meet the timescale for consideration of called-in decisions as set out in Overview and Scrutiny Rule 22.6.1.

59. **Minutes:**

RESOLVED: That the minutes of the meeting held on 23 May 2005, having been circulated, be taken as read and signed as a correct record

60. **Call-in of Environment and Transport Portfolio Holder Decision: Proposed Extension of Stanmore Controlled Parking Zone - Objections and Re-Consultation Results including Howberry Road and Howberry Close:**

The Sub-Committee considered a decision of the Environment and Transport Portfolio Holder dated 13 October 2005, which determined that the Council would implement a Controlled Parking Zone (CPZ) incorporating a residents' parking scheme in Howberry Road between Cloyster Wood and Wychwood Avenue including Howberry Close, as described in paragraph (4) of the published decision notice. Members received the notice invoking the call-in procedure, the record of the Portfolio Holder's decision, the documentation sent to the Portfolio Holder to inform his decision, and a tabled statement from the Portfolio Holder, who was unable to attend the meeting. A procedural note provided by the Director of Corporate Governance was also tabled at the meeting.

The Director of Corporate Governance advised the Sub-Committee that a decision related to the same issue had previously been called-in and therefore Members needed to determine the validity of the call-in. He described the provision in Rule 22.1

of the Overview and Scrutiny Procedure Rules stating that a decision may only be subject to the call-in procedure once, and advised that the Sub-Committee needed to decide whether this was the same decision as that considered by the Sub-Committee on 11 January 2005. While the two decisions were not worded identically, it was his view that this was the same decision. He advised that a narrow interpretation of the rule, allowing decisions to be called-in on more than one occasion unless they were identical, could enable a Call-In Sub-Committee to disrupt the business of the Executive. He stated that while the notice of the Portfolio Holder's decision sent to Members stated that call-in did apply, this did not mean that Rule 22.1 was inapplicable as it was for Members to decide whether the decision was the same.

Following questions from Members, the Director of Corporate Governance stated that it was for the Sub-Committee to decide whether the additional consultation that had taken place regarding the Controlled Parking Zone after it was considered on 11 January meant that this was now a separate decision. He also stated that the Constitution Working Party could consider this issue at its December meeting.

The Sub-Committee decided to consider the call-in on this occasion, and agreed that Officers and the Constitutional Working Party seek means of clarifying whether two decisions should be regarded as the same in these circumstances.

The decision had been called-in on three grounds: the absence of adequate evidence on which to base a decision, the action was not proportionate to the desired outcome, and a potential human rights challenge.

The Sub-Committee having decided that the call-in was valid, the Chair asked an officer to explain how the decision was taken. The officer stated that consultation had been carried out asking residents to indicate whether they preferred a residents' parking scheme or a yellow line. This consultation had shown that over a third of residents were in favour of a yellow line scheme. However, a negative consequence of a yellow line scheme was that it was highly restrictive as no cars could be left on the yellow lines during the restricted hour. Both schemes offered a deterrent to commuter parking but a residents' parking scheme allowed a greater element of choice as residents who did need to use on-street parking during the restricted hour could purchase a permit to park in the street. The Traffic and Road Safety Advisory Panel (TARSAP) had decided that the residents' permit scheme was the best option as it offered choice and would be less likely to seriously inconvenience a minority of residents.

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, while a majority of respondents indicated a preference for a yellow line scheme, over a third of respondents had voted for a residents' parking scheme; this indicated that they may need to use on-street parking during the restricted hours. Any resident without off-street parking would be severely inconvenienced by a yellow line only scheme. It was stated that the consultation exercise had been small, however, and officers had received very few comments from residents, making it difficult to give clear evidence on how many would be severely inconvenienced. There had nevertheless been an excellent response to the consultation, with 32 of the 65 households consulted responding. The officer added that he had been surprised that the majority of respondents had opted for a yellow line as most areas tended to indicate a preference for residents' parking schemes.

The Chair asked a Member representing the signatories to the call-in to explain why councillors requesting the call-in had felt there was inadequate evidence on which to base the decision. In response, he stated that the original decision on the CPZ had been called in, and referred back to the Portfolio Holder by the Call-in Sub-Committee, because a yellow line option had not been included in the initial consultation. The referral back of the decision had led to further consultation, in response to which residents indicated their support for a yellow line scheme. Despite this, the Portfolio Holder had decided to implement a residents' parking scheme. He stated that Canons Park Residents' Association (CAPRA) had carried out an independent consultation, with an 83% response rate, in which 54% of respondents expressed a preference for a yellow line scheme with 44% supporting a residents' parking scheme. He stated that if it was possible for TARSAP to override the view expressed by a consultation exercise then this should be made clear from the start of the process.

The Chair thanked the Member for attending the meeting, and noted that Ward Councillors had wished to attend but had been unable to do so. She apologised that it had not been possible to hold the meeting on the only other date that Members were available, but explained that this coincided with a major religious festival.

At the invitation of the Chair, a representative of CAPRA addressed the meeting. She opposed a residents' parking scheme and supported a yellow line scheme. She stated that CAPRA had asked for an extension to the existing yellow line scheme since 1996 and added that the Council's 2001 consultation exercise had shown a significant majority of residents in the affected roads were in favour of a yellow line scheme.

Members of the Sub-Committee, having considered all the evidence, summarised their views about the grounds for call-in, and expressed concern over the evidence on which the decision had been based. A Member stated that officers had assumed that a minority of residents would be severely inconvenienced by a yellow line scheme but clear evidence of this had not been provided. It was also suggested that the view of the majority of residents had been given insufficient prominence in the officer report. It was therefore agreed to uphold the call-in on the grounds of inadequate evidence on which to base a decision. The call-in of the decision on the grounds that the action was not proportionate to the outcome, or on the grounds of a potential human rights challenge, however, was rejected.

RESOLVED: That (1) the call-in of paragraph (4) of the decision be upheld on the grounds of the absence of adequate evidence on which to base a decision, and that this part of the decision be referred back to the Portfolio Holder for re-consideration;

(2) the remainder of the decision be implemented immediately; and

(3) the Constitution Working Party be requested to clarify the provisions of Overview and Scrutiny Procedure Rule 22.1.

61. **Call-in of Environment and Transport Portfolio Holder Decision: Roxeth Green Avenue, South Harrow:**

The Sub-Committee considered a decision of the Environment and Transport Portfolio Holder dated 13 October 2005, which determined that the Council would implement a congestion relief scheme in Roxeth Green Avenue, as described in Appendix D of the published officer report. Members received the notice invoking the call-in procedure, the record of the Portfolio Holder's decision, the documentation sent to the Portfolio Holder to inform his decision, and a tabled statement from the Portfolio Holder, who was unable to attend the meeting.

The decision had been called-in on three grounds: the absence of adequate evidence on which to base a decision, the action was not proportionate to the desired outcome, and a potential human rights challenge.

The Chair asked an officer to explain how the decision was taken. The officer stated that the objective of the scheme was to reduce traffic congestion in Roxeth Green Avenue following concerns raised by members of the public through both a MORI poll and a public meeting held as part of the New Harrow Project. The design process for the project had included a local consultation exercise and the public exhibition of drawings. Following the receipt of public comments, the design process had continued with officers noting these comments. There had then been a second public consultation on the refined scheme and the additional proposals. Throughout the process it had been agreed that the scheme was necessary and no significant adverse comment had been received. The officer added that the design process was complex and the report sent to the Portfolio Holder contained only what was necessary to enable the Portfolio Holder to take an informed decision.

The Chair asked a Member representing the signatories to the call-in to explain the reasons for the call-in. In response, she stated that other traffic measures in South Harrow had increased congestion and led to increased speeds as cars accelerated on leaving them. She added that the building out of junctions would reduce the width of already narrow roads without assisting pedestrians. The scheme also included the planting of new trees, which could impinge visibility, and a new cycle lane which had the potential to be used by cars to increase speed. The Member had had input into the scheme, having been included in the second round of consultation in her capacity as a Ward Councillor, but felt that there was a lack of evidence in the report to the Portfolio Holder to support the conclusions reached as it did not address the potential negative impact on safety of some parts of the scheme.

An officer responded by stating that many of the features in the scheme were widely used and the Portfolio Holder would not have needed detailed descriptions. Engineers had decided what details were necessary for the Portfolio Holder to make an informed decision. The building out of junctions was a very common feature of traffic schemes and did not lead to the narrowing of side roads. The scheme was intended to achieve a balance in reducing vehicle speed but providing adequate parking. The Officer stated that he did not believe the report could be improved.

The Chair invited a Ward Councillor who was present to give his views on the scheme. He stated that he felt that the scheme was an effective balance between reducing congestion and avoiding dangerous increases in speed, and that adequate consideration had been given to the views of local residents. He agreed that there may be problems of traffic displacement and increased speed arising from that scheme, but there had been comments on this at an early stage and he was satisfied that consideration had been given to these issues by officers, and that they would continue to monitor them post-implementation. He concluded by stating that he did not support the call-in and felt there had been sufficient evidence on which to base a decision.

Members of the Sub-Committee asked questions on a number of issues. The degree of discretion officers would have to amend the scheme after approval by the Portfolio Holder was highlighted as a central issue. An officer explained that it was possible that minor amendments to the scheme would be made during the detailed design process but in the event of any major changes it was necessary for a new report to be submitted to the Portfolio Holder for a decision. The officer agreed that section 2.3.6a of the report may have given the Portfolio Holder the impression that further speed-reduction measures were to be added during the design process when all measures to be implemented had been included in the report.

Members of the Sub-Committee, having considered all the evidence, summarised their views about the grounds for call-in. A Member stated that a Ward Councillor had explained that residents were happy with the scheme. Another Member stated that while the report should have contained more detail, it had provided sufficient evidence on which to base a decision. Members agreed that the report did contain sufficient evidence on which to base a decision, the action was proportionate to the desired outcome and there was not a potential human rights challenge.

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

62. **Guidance on Issues Arising at the Meeting:**

Further to this having been raised as an item of other business, a Member noted that the Portfolio Holder was not present at the meeting due to other commitments but stated that it would assist the Sub-Committee in reaching a decision if Members were able to question the Portfolio Holder directly. He requested that the Director of Legal Services provide some guidance on Portfolio Holder attendance at Call-in Sub-Committee meetings.

Clarification was also sought on the routing of Portfolio Holder decisions relating to traffic schemes, and specifically whether Ward Councillors and Nominated Members of the Traffic and Road Safety Advisory Panel (TARSAP) could request that such matters be considered by TARSAP prior to referral to the Portfolio Holder for decision.

RESOLVED: That the Director of Legal Services be requested to provide the Call-In Sub-Committee with guidance to clarify the issues outlined above.

(Note: The meeting having commenced at 7.30 pm, closed at 9.35 pm)

(Signed) COUNCILLOR MITZI GREEN
Chair