

**CYNGOR CAERDYDD
CARDIFF COUNCIL**

**JOINT COMMITTEE OF ECONOMY & CULTURE SCRUTINY COMMITTEE AND
ENVIRONMENTAL SCRUTINY COMMITTEE**

13 SEPTEMBER 2017

**CALL IN CABINET DECISION CAB/17/11 - FUNDING THE NEW BUS
TRANSPORT INTERCHANGE**

Appendices 2, 3, 4, 5 and 6 to Appendix A of this report are exempt from publication because they contain information of the kind described in paragraphs 14 and 21 of parts 4 and 5 of Schedule 12A to the Local Government Act 1972. It is viewed that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Purpose of Report

1. To provide Committee Members with background information on: the Council's Call- In procedure; the decision being called-in at this meeting; and the scope, process and structure of Call-In scrutiny.

Call-In Procedure

2. The Council's Constitution contains a Call-In Procedure which provides that any non-Cabinet Member may call-in a decision of which notice has been given, by writing to the Operational Manager of Scrutiny Services within the Call-In Period (within seven clear working days after publication of the decision). The Operational Manager shall then notify the Cabinet Business Office and call a meeting of the relevant Scrutiny Committee, where possible after consultation with the Chairperson of the Committee, and in any case within five clear working days of the decision to call-in.

3. Cabinet Decisions, for purposes of the Call-In Procedure, are those made by the Cabinet, a Committee of the Cabinet, the Leader, a Cabinet Member, the Chief Executive or a Corporate Director (or other post holder/s within the same tier of management or responsibility).

Decision being Called-In - CAB/17/11

4. At the Cabinet Meeting on 27 July 2017, the Cabinet resolved that:
 - 1) *The developer be allowed to maximise capital receipts for the commercial floor space within the Bus Interchange development by allowing end use to be driven by market demand.*
 - 2) *Authority be delegated to the Director of Economic Development in consultation with the Cabinet Member for Investment & Development and the Cabinet Member for Finance, Modernisation and Performance, the Section 151 Officer and the Monitoring Officer to:*
 - *Negotiate and conclude a final agreement with the developer subject to the financial envelope outlined in Appendix 3 for the delivery of the Bus Interchange project and appropriate external advice.*
 - *Settle outstanding design, planning and site preparation costs as outlined in Confidential Appendix 2 subject to independent verification of costs.*
 - *Acquire the Saunders Road Car Park site owned by Network Rail to complete the land assembly as outlined in this report, subject to independent valuation.*
 - 3) *Budget be brought forward from the approved 2018/19 Capital Programme into 2017/18 budget to meet the pre planning and land assembly costs outlined in the report.*
5. This Cabinet Decision, known as CAB/17/11 was published on the 28 July 2017 in the Register of Cabinet Decisions, with a proposed implementation date of 8 August 2017. The reason provided in the Register of Cabinet Decisions for taking this Decision was:

- *“To seek in-principle agreement from Cabinet to the proposed funding proposal from the developer for delivery of the Bus Interchange development and to secure delegated authority to conclude arrangements to deliver the development within the Council’s financial envelope including settling outstanding design, planning and site preparation costs”.*
6. The cabinet report and appendices for this item are attached at **Appendix A**. Members should note that **Appendices 2, 3, 4, 5 and 6** of the report at **Appendix A** are exempt from publication. Members are requested to keep this information confidential, in line with their responsibilities as set out in the Members Code of Conduct and the Cardiff Undertaking for Councillors. The meeting will go into closed session to enable discussion on this information.
7. A copy of the relevant section of the Register of Cabinet Decisions, setting out the decision and reasons for this decision, is attached to this report at **Appendix B**.

Reasons given for Calling-In Decision CAB/17/11

8. During the Call-In period after the Cabinet meeting of the 27 July 2017, a non-executive councillor submitted a request to call-in the Cabinet Decision CAB/17/11. The reasons set out by the non-executive councillor for calling in the decision are:
- *“I believe the decision to allow end use of the interchange to be driven by commercial demand needs to be reviewed. If the decision is allowed to stand it could lead to all office space from the development being lost, with student flats instead”.*
 - *“The interchange is within the Central Cardiff Enterprise Zone. The purpose of the Enterprise Zone is to create the 'best possible conditions' for business to thrive. Student flats are inconsistent with this aim as they do not constitute business or enterprise”.*

- *“The interchange is also a key part of the South Wales Metro scheme. The Metro aims to create an integrated public transport network. The interchange is at the heart of that network. Most train journeys in south Wales will end just outside the interchange at Cardiff Central rail station. And almost every bus journey on the Cardiff and Vale bus network will end at the bus interchange”.*
- *“It is, therefore, essential that the interchange building provides long term accommodation for job creating businesses, rather than accommodation for a temporary student population. What the interchange building and the people of south Wales need is a large bus station with high-paid office jobs, where they can seamlessly move from public transport to their place of work”.*
- *“If the decision to build 100% student accommodation goes ahead then millions of pounds will have been spent demolishing a bus station and a car park in order to build an even smaller bus station and a car park; but with some student flats on top. This would be a complete waste of an area that has the potential to develop excellent, and integrated, public transport, connected not only to the rest of south Wales, but to the world’s largest financial capital in London”.*
- *“The bus station and the high quality office space must be the priority for this development. It seems that car parking for the BBC and the needs of the developer have now overtaken the need of the city to have high-paid, quality jobs”.*
- *“An Enterprise Zone is a place for encouraging enterprise. That means jobs and an integrated, modern public transport network”.*
- *“The Cabinet’s decision on the 27 July to allow end use to be driven by market demand, potentially leading to students flats, would be a real mistake that would discourage enterprise and jeopardise the South Wales Metro project”.*

9. The Call-In request has been deemed valid and hence a Scrutiny Committee meeting has been convened to undertake the Call-In.

Scope of Scrutiny

10. The role of Scrutiny Committees calling-in a decision is:
 - To test the merits of the decision;
 - To consider the process by which the decision has been formulated;
 - To make recommendations (to support the decision, change aspects of the decision or to invite the decision making body to reconsider);
 - To suggest further steps before a decision is made.

11. The scope of this scrutiny is limited to exploring the reasons for the call-in listed in paragraph 8 and the role of scrutiny listed in paragraph 10. If questions are judged as probing areas not within the remit of the call-in, the Chair will deem it necessary to disallow the line of inquiry.

Process for Scrutiny

12. The Committee needs to consider this call-In in accordance with the requirements of the Call-In Procedure, as set out in the Constitution. Under the Call-In Procedure, the relevant Scrutiny Committee may consider the called-in decision itself, or decide to refer the issue to the Council for scrutiny, if the matter is of general significance and importance to the Council as a whole. A Council meeting to consider this issue must take place within 10 clear working days of such a referral, unless otherwise agreed between the Leader and the Chairperson of the relevant Scrutiny Committee.

13. If the Scrutiny Committee chooses to consider the Decision, it may refer the Decision back to the decision maker for reconsideration, setting out in writing the nature of its concerns. The decision maker shall then reconsider the matter before adopting a final decision or formally deferring the matter for further consideration. The relevant Scrutiny Committee or Council as appropriate would be advised of the outcome at its next meeting.

14. If following a Call-In, the matter is not referred back to the decision maker, the decision shall take effect on the date of the relevant Scrutiny Committee or

Council meeting which considers the issue, or the expiry of the Scrutiny Period or the Council Scrutiny Period as appropriate, whichever is the later.

Structure of scrutiny

15. To assist Members, Councillor Russell Goodway, (Cabinet Member Investment and Development), Neil Hanratty, (Director of Economic Development), John Worrall, (Head of Major Projects) and Geoff Shimell (Legal Services – Property and Development) have been invited to respond to the Call-In and answer Committee Members questions.
16. In addition, Councillor Neil McEvoy, who has called in the decision, has been invited to give evidence to the Committee. If any written statements are provided for the meeting, a section has been allocated within the agenda for their consideration. It is at the Chair's discretion to allow other witnesses to address the Committee.
17. All Members are reminded of the need to maintain confidentiality with regard to the information provided in **Appendices 2, 3, 4, 5 and 6 of Appendix A**. The meeting will go into closed session to enable discussion of this information.
18. At the Chair's request, a Cardiff Council solicitor will attend to provide constitutional advice to Committee Members, if this proves necessary.

Previous Scrutiny

19. Members are reminded that they undertook pre-decision scrutiny of this item at a special meeting of the Joint Committee on 18th July 2017 and explored the wider issues to do with this item at that meeting. The papers for the meeting, including details of other related scrutiny, is available at:
<http://cardiff.moderngov.co.uk/ieListDocuments.aspx?CId=171&MId=3109&LL=L=0>

20. Following the meeting, the Chair, Councillor Howells, wrote to Councillor Goodway, Cabinet Member (Investment and Development); the letter and response received are attached at **Appendix 8 of Appendix A**.

Legal Implications

21. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct legal implications. However, legal implications may arise if, and when, the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

22. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if, and when, the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATION

The Committee is recommended to consider Cabinet Decision CAB/17/11 in accordance with the Call-In Procedure.

DAVINA FIORE

Director of Governance & Legal Services

7 September 2017