

CITY & COUNTY OF CARDIFF

DINAS A SIR CAERDYDD

COMMUNITY & ADULT SERVICES SCRUTINY COMMITTEE

7 OCTOBER 2015

'RE-DECLARATION OF AN ADDITIONAL LICENSING SCHEME IN THE CATHAYS WARD OF CARDIFF' - CONSIDERATION OF CALLED-IN CABINET DECISION CAB/15/34

Background

1. The Council's Constitution makes provision for a Call-In Procedure which provides that any non-Cabinet Member may call-in a decision of which notice has been given, by giving notice in 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.
2. 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).
3. During the Call-In period after the Cabinet meeting of the 17 September 2015, a non-executive councillor submitted a request to call-in the decision, made at that Cabinet meeting, on the item titled '*Re-Declaration Of An Additional Licensing Scheme In The Cathays Ward Of Cardiff*'. The item asked Cabinet to consider the evidence in the report supporting the re-declaration of an Additional Licensing Scheme in Cathays, to run for another period of 5 years.

4. The Cabinet Decision CAB/15/34 made on 17 September 2015, published on the 21 September 2015 and with a proposed implementation date of 01 October 2015, resolved that:

‘the Cathays Community Ward be re-declared as an Additional Licensing area with effect from 1 January 2016 to run for a period of 5 years.’

5. A copy of the relevant section of the Register of Cabinet Decisions is attached as **Appendix A**.
6. Attached as **Appendix B** is the report to the Cabinet Business Meeting of 17 September 2015. **Appendix B** itself contains six appendices, these are:
- Appendix 1 – Public Consultation Document
 - Appendix 2a - Consultation Report
 - Appendix 2b – Schedule of Consultation Responses
 - Appendix 3 – Evaluation of Additional Licensing Scheme 2010-2015
 - Appendix 4 – Equality Impact Assessment
 - Appendix 5 – Licensing Standards for HMOs¹ under the Scheme

Reasons for Call-In

7. A non-executive councillor has requested that this decision is called in for Scrutiny Committee consideration. The reasons given for the call-in are:
- a. ***‘Insufficient stakeholder consultation*** –*the cabinet paper refers a lot to the consultation. However, the schedule of consultation comments (at Appendix 2b) shows discontent with the stakeholder consultation process and raises issues about the way the consultation process was handled, in particular with the Cardiff Landlords Forum. These concerns are not referenced in the body of the Cabinet Report. In terms of tenants, only 16 private tenants actually replied. Similarly, the timing of the consultation process, to run in June, may have adversely impacted on the response rate from students, the Students Union and Universities; only 1 University responded.*

¹ HMOs stands for Houses in Multiple Occupation

- b. **Insufficient council consultation** – the issue hasn't been considered by CASSC² at all and warrants scrutiny, as demonstrated by the consultation responses.
- c. **Changing legislative landscape** – my biggest concern is that the proposal simply seeks to replicate the original licensing scheme and makes no reference to the Housing (Wales) Act 2014. Whilst additional licensing of properties in Cathays was needed in 2010, the new requirements for all landlords to be licensed in their own right completely changes the legislative landscape. I am unclear whether the proposed approach is fit for purpose in the new legislative landscape and believe this needs to be explored via the call- in.³

8. Officers have provided a statement in response to the reasons above, which is attached at **Appendix C**.

Scope of Scrutiny

9. The role of Scrutiny Committees calling in a decision is to use the reasons for call-in to:
- Test the merits of the decision;
 - Consider the process by which the decision has been formulated;
 - Make recommendations (to support the decision, change aspects of the decision or to invite the decision making body to reconsider);
 - Suggest further steps before a decision is made.

Process for Scrutiny

10. The Committee needs to consider this call-in in accordance with the requirements of the Call-In Procedure. The scope of this scrutiny is limited to exploring the reasons for the call-in listed in paragraph 7 and the role of scrutiny listed in paragraph 9. Should questions be evaluated as probing

² CASSC stands for Community & Adult Services Scrutiny Committee

³ Taken from call- in request submitted by Councillor Joseph Carter to Marie Rosenthal, Director of Governance and Legal Services, and Paul Keeping, Operational Manager Scrutiny Services, dated 24 September 2015

areas not within the remit of the call-in then the Chair will deem it necessary to disallow the line of inquiry.

11. 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.
12. If the relevant Scrutiny Committee decides to consider the called-in decision itself, then, having considered the decision, the Scrutiny Committee may refer it 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, arranging for the decision to be changed to reflect points made by the Scrutiny Committee, or formally deferring the matter for further consideration. The relevant Scrutiny Committee or Council as appropriate will be advised of the outcome at its next meeting.
13. 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

14. To assist Members, Councillor Dan De'Ath, Cabinet Member (Skills, Safety, Engagement and Democracy), Andrew Gregory, (Director of City Operations), Will Lane (Operational Manager), Bethan Jones (Operational Manager, Rent Smart Wales) and Steven Tudball (Housing Enforcement) have been invited to discuss the Decision. A Cardiff Council Solicitor will also be in attendance to offer their professional advice to Members.

15. In addition the following witnesses have been invited to give evidence to the Committee:
 - a. Councillor Joseph Carter
 - b. Douglas Haig - Cardiff Landlords Forum
 - c. A representative from Cardiff Students Union.

16. If any written statements are provided for the meeting then a section has been allocated within the agenda for their consideration.

Legal Implications

17. 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

18. 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/15/34 in accordance with the Call-In Procedure.

Marie Rosenthal

Director of Governance & Legal Services

01 October 2015