

**OVERVIEW AND SCRUTINY COMMISSION
21 SEPTEMBER 2011**

**CALL- IN OF EXECUTIVE DECISION – IMPLEMENTATION OF OLDER PERSONS
ACCOMMODATION AND SUPPORT SERVICES STRATEGY**

Assistant Chief Executive

1 PURPOSE OF DECISION

To consider the Executive's decision 1030320, concerning the implementation of the Older Persons Accommodation and Support Services Strategy, which has been called – In at the request of Councillors Leake, Angell, McLean and Virgo. The Council's Constitution requires that the Overview and Scrutiny Commission shall review the Executive's decision within 7 working days of the decision to call-in. If, having considered the decision, the Commission is concerned about it, then it may refer it back to the Executive for reconsideration, setting out in writing the nature of its concerns, or refer the matter to full Council.

2 RECOMMENDATIONS

That the Overview and Scrutiny Commission:

- 2.1 Invites the Councillors requesting the Call-In to explain their concerns over the Executive decision.**
- 2.2 Invites the Executive Member for Adult Services, Health and Housing to comment on Members' concerns.**
- 2.3 Reviews the Executive's decision and determines whether to refer it back to the Executive, or to full Council.**

3 SUPPORTING INFORMATION

- 3.1 The Overview and Scrutiny (O&S) procedure rules relating to Call-In are in the Council's Constitution at Annex 1.**
- 3.2 At its meeting on 6 September the Council's Executive considered the attached report entitled, 'Implementation of Older Persons Accommodation and Support Services Strategy'.**
- 3.3 The Executive agreed the recommendations in that report, and the record of the Executive's decision at Annex 2 was published on 7 September, for implementation on 15 September, subject to any Call-In.**
- 3.4 On 12 September, Councillor Leake, supported by Councillors Angell, McLean and Virgo, formally notified the Head of Democratic and Registration Services (the 'Proper Officer' under the terms of the Constitution) that he wished to call-in the Executive's**

decision at Annex 2. On 14 September, Councillors Leake, McLean and Virgo cited their reasons for the call-in as follows:

That decision 2 of the above [Executive] decision [on the Implementation of Older Persons Accommodation and Support Services Strategy] relating to the Binfield Nursery site does not adequately define important parameters of any proposed scheme alluding to:

1. Density
2. Protection and future use of preserved wall area
3. Indicate suggested percentage of affordable housing or extra care units
4. Makes no reference to provision to relocate loss of existing nursery provision
5. Allude to funding of proposed new surgery and state
6. That release and development of land is conditional on these requirements being met.

- 3.5 Based on that request, the Head of Democratic and Registration Services called-in the Executive decision on 13 September. An additional meeting of the Overview and Scrutiny Commission has been arranged at short notice as under the Constitution, the Commission have until Thursday 22 September to consider the Call-In. The Council's Executive Member for Adult Services, Health and Housing will be present. Officer attendance will include the Chief Executive, and the Chief Officer: Housing.
- 3.6 A special meeting of the Executive has been provisionally arranged for 5.00pm on 27 September 2010, which will consider any views the Commission may wish to submit to it.

4 ADVICE RECEIVED FROM STATUTORY OFFICERS

Borough Solicitor

- 4.1 Under the executive arrangements that the Council was required to adopt under Part II of the Local Government Act 2000, the legislative intention is that the full council will determine its policy framework (through approval or adoption of a series of plans or strategies) and its budget; the executive is then responsible for implementation of the policy framework. The Constitution the Council adopted reflects this division of responsibilities.
- 4.2 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 provide that many functions relating to town and country planning and development control (including powers to determine or decline applications for planning permission) are not to be the responsibility of an Authority's executive. Decisions on these planning matters are the responsibility of the Planning Committee in this Council and cannot be taken by the Executive.
- 4.3 Therefore, neither the Executive nor full Council may amend the Executive's decision to address the concerns expressed as reasons for the call-in which relates to responsibilities of the Planning Committee. The decision that was made was an Executive decision for which the Executive and not the Council is responsible. As stated in the Constitution, if the decision were referred to full Council and Council objected to the decision, Council could not itself make a different decision unless the Executive

decision was contrary to the policy framework, and this decision does not appear to be contrary. Council could refer the decision back to the Executive together with its views.

Background Papers

Local Government Act 2000

Contact for further information

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Bracknell Forest Council Constitution (Extract)

Part 3

2.2 Terms of Reference

The Overview and Scrutiny Commission shall:

(iii) review decisions made, but not yet implemented, by the Executive and any other Committee, where these have been called-in.

Part 4 Section 9 – Overview And Scrutiny Procedure Rules

20 Call-in

a) When a decision is made by the Executive, an individual member of the Executive or a committee of the Executive, or a Key Decision is made by an officer with delegated authority from the Executive, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two working days of being made. The chairmen of the Overview and Scrutiny Commission and overview and scrutiny panels will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

b) The notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the date the decision is published, unless the decision is called in as described below.

c) During the period, the proper officer may call-in a decision for scrutiny by the Overview and Scrutiny Commission if so requested by the chairman and any 2 Members of the Overview and Scrutiny Commission, or any 5 Members of the Council and shall then notify the decision-maker and all other Executive members of the call-in, a Member requesting a call-in shall provide the proper officer with a brief written summary of their reasons for the request, and insofar as they are able to do so, briefly set out what action arising from the call-in they wish to be taken. The proper officer shall call a meeting of the Commission on such date as he/she may determine, where possible after consultation with the Commission chairman, and in any case within 7 working days of the decision to call-in.

d) For the purposes of this section, where the decision relates to the exercise of an education function, the duly appointed diocesan representatives and parent governor representatives shall have the same rights to seek or support the calling-in of a decision as any other member of the Overview and Scrutiny Commission.

e) If, having considered the decision, the Commission is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred back the decision maker shall then reconsider within a further 7 working days, amending the decision or not, before adopting a final decision.

f) If following an objection to the decision, the Overview and Scrutiny Commission does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body or to the Council, the decision shall take effect on the date of the meeting, or the expiry of the period in which the meeting should have been held, whichever is the earlier.

g) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was made by the Executive, as a whole or a committee of it, a meeting will be convened to reconsider within 7 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 5 working days of the Council request.

h) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

i) The call-in procedure set out above shall not apply where the decision being made by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision making person or body the decision is an urgent one, and therefore not subject to call-in. The Mayor must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Mayor, the Deputy Mayor's consent shall be required. In the absence of both, the head of paid service or his/her nominee's consent shall be required. Decisions made as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

j) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

Annex 2

Bracknell Forest Council Record of Decision

Work Programme Reference	I030320
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1. **TITLE:** Implementation of Older Persons Accommodation & Support Services Strategy

2. **SERVICE AREA:** Environment, Culture & Communities

3. **PURPOSE OF DECISION**

The purpose of this report is to seek consideration of the use of Council land assets to implement the first stages of the older persons accommodation and support services strategy.

4. **IS KEY DECISION** Yes

5. **DECISION MADE BY:** Executive

6. **DECISION:**

1 That the principle of Council owned land at Garth shown at Appendix A being transferred to Bracknell Forest Homes to enable the development of an extra care scheme for older people be agreed.

2 That in principle the Binfield Nursery site being developed for residential development subject to planning permission including in part the provision of older persons accommodation be agreed.

7. **REASON FOR DECISION**

At its meeting on the 5 July 2011 Executive agreed the Older Persons Accommodation and Support Services Strategy. It also agreed to programme funding from the stock transfer receipt to support Bracknell Forest Homes developing an extra care scheme for older people.

Bracknell Forest Homes have been successful in receiving £2 million of funding from the Homes and Communities Agency to develop an extra care scheme. The scheme must be completed by March 2015. The Council has agreed to provide £1.5 million of funding towards the development of an extra care scheme funded from the stock transfer receipt, plus the value of the land estimate at approximately £1 million.

The strategy has identified the need for up to 350 units of extra care housing in Bracknell Forest up to 2026. It is estimated that around 250 of those units should be privately owned and the balance affordable housing.

Through consultation with older people it has been established that location is a primary concern of older people in moving to new accommodation. The locations that were identified as first and second priority locations in the borough were Bracknell town centre and Binfield.

The Council has the ability to bring the Garth sites to market for residential development. The potential scale of development on both sites will mean they will both be qualifying sites for the Council's affordable housing policy. The Council's affordable housing planning policy allows an affordable housing obligation to be met by provision of affordable housing on an

alternative site to that being developed. Therefore, the opportunity exists to bring forward the first of the two sites for development including the extra care scheme for older people and in so doing providing the affordable housing obligation for both sites.

By bringing forward the Garth site at Appendix A to provide the affordable housing obligation across both sites it will maximise the value for the Council of both sites and also enable the funding secured by Bracknell Forest Homes to be defrayed before March 2015 which is a condition of the funding. The funding will be released to Bracknell Forest Homes upon completion of the extra care scheme. Therefore, the latest date that Bracknell Forest Homes should start on site is December 2012.

Bracknell Forest Homes are a preferred partner registered provider of the Council. This was achieved via the competition to select preferred partners which took place in 2009/10. Therefore, there has been a competitive process to select the developer of the extra care scheme.

The Binfield nursery site is capable of being brought forward for development if access arrangements are addressed. If the site is brought forward for residential development subject to planning permission it will offer the opportunity to bring forward an extra care scheme for older people which will be predominantly owner occupied. As a qualifying site for affordable housing the Council would negotiate an element of the extra care development as affordable housing so as to achieve the planning obligation.

8. ALTERNATIVE OPTIONS CONSIDERED

The Council could decide to bring the Garth sites to the market without demarcating an element to provide an extra care scheme for older people. This would run the risk of making it more difficult to secure a site for such a provision in Bracknell town centre. It may also lead to provision of a different type of affordable housing offer to meet the affordable housing obligation across both sites which may impact on overall site value. Moreover, delay in bringing the site forward would jeopardise the ability to defray the funding that Bracknell Forest Homes has secured. Without the availability of that funding if the Council wishes to support the scheme inevitably the Council would be required to provide additional funding. Therefore, the recommendations present the best way of maximising the Council's resources.

If access arrangements to the Binfield nursery site are addressed and the site is brought forward for residential development subject to planning permission without demarcating land for an older person's scheme this may mean an alternative form of affordable housing is offered to meet the obligation which may impact on value. Moreover, it may also threaten the Council's ability to achieve the objectives of the Older Person's Accommodation and Support Services Strategy where older people have indicated Binfield as a preferred location.

9. **PRINCIPAL GROUPS CONSULTED:** Older people and residents.

10. **DOCUMENT CONSIDERED:** Report of the Director of Environment, Culture & Communities

11. **DECLARED CONFLICTS OF INTEREST:** None.

Date Decision Made	Final Day of Call-in Period
06 September 2011	14 September 2011