

OVERVIEW AND SCRUTINY COMMITTEE

15 AUGUST 2023

Receipt of a 'Call-In' – Relevant Procedure – Strategic CIL Assessment & Spend

Timetable	
Meeting	Date
Overview and Scrutiny Committee	15 August 2023
Council (if applicable)	To be confirmed.
Cabinet (if applicable)	To be confirmed.

Will this be a Key Decision?	No
Urgency	Not Applicable
Final Decision-Maker	Cabinet
Lead Director	Angela Woodhouse, Director of Strategy, Insight & Governance
Lead Officer and Report Author	Oliviya Parfitt, Principal Democratic Services Officer
Classification	Public
Wards affected	All

Executive Summary

This report outlines how the call-in received will be facilitated at the meeting, in accordance with the requirements of the Constitution and best practice.

Purpose of Report

Decision

This report makes the following recommendations to the Committee:

That the decision relating to the Strategic CIL Assessment & Spend be considered against the call-in request received, as shown in Appendix 1 to the report.

Receipt of a 'Call-In' – Relevant Procedure – Strategic CIL Assessment & Spend

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place <p>We do not expect this report's recommendation to materially affect achievement of corporate priorities.</p> <p>The impact on corporate priorities in relation to the decision being called-in can be found in Appendix 3 to the report.</p>	Chief Executive
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>The impact on corporate priorities in relation to the decision being called-in can be found in Appendix 3 to the report.</p>	Chief Executive
Risk Management	<p>No impact identified for the purposes of this report.</p> <p>The risk associated with the decision being called-in can be found in Appendix 3 to the report.</p>	Chief Executive
Financial	<p>No impact identified from this report.</p> <p>The financial implications of the decision being called-in can be found in Appendix 3 to the report.</p>	Chief Executive

Staffing	<p>The call-in will be facilitated with the support of the Democratic Services Team.</p> <p>The staffing implications of the decision being called-in can be found in Appendix 3 to the report.</p>	Chief Executive
Legal	<p>The Local Government Act Section 9(F) as amended by the Localism Act 2011, requires that where a Local Authority operates under an Executive Governance System there must be at least one Overview and Scrutiny Committee that is able to:</p> <ul style="list-style-type: none"> • 'Review or scrutinise decisions made' and • Make 'reports or recommendations' to the Executive on the discharge of executive functions (LGA 2000, Section 9F (1-2)) <p>Therefore, the call-in and review of the decision made by the Cabinet and any alternative recommendations produced as a result, is within the Committee's statutory powers.</p> <p>Any legal implications arising from the decision being called-in can be found in Appendix 3 to the report.</p>	Team Leader (Planning) and Monitoring Officer
Information Governance	<p>No impact identified from this report.</p> <p>Any information governance implications arising from the decision being called-in can be found in Appendix 3 to the report.</p>	Information Governance Officer
Equalities	<p>No impact identified from this report.</p> <p>Any equalities implications arising from the decision being called-in can be found in Appendix 3 to the report.</p>	Equalities & Communities Officer
Public Health	<p>No impact identified from this report.</p> <p>Any effects on public health arising from the decision being called-in can be found in Appendix 3 to the report.</p>	Democratic Services Officer

Crime and Disorder	No impact identified from this report. Any crime and disorder governance implications arising from the decision being called-in can be found in Appendix 3 to the report.	Chief Executive
Procurement	No impact identified from this report. Any procurement implications arising from the decision being called-in can be found in Appendix 3 to the report.	Chief Executive
Biodiversity and Climate Change	No impact identified from this report. Any biodiversity and climate change implications arising from the decision being called-in can be found in Appendix 3 to the report.	Chief Executive

2. INTRODUCTION AND BACKGROUND

2.1 At its meeting on the 26 July 2023, the Cabinet made the following decision:

1. *That Community Infrastructure Levy (CIL) funding that has been collected is allocated (as minima) to the following strategic projects for the period to 31 March 2025:*
 - *M20 Junction 7 Upgrade - £1,836,729 in Strategic CIL monies, subject to appropriate due diligence by the Director of Finance, Resources & Business Improvement in consultation with the Cabinet Member for Corporate Services;*
 - *Heather House Community centre Redevelopment - £956,420*
 - *St Faith's Community Centre Redevelopment - £250,000*
2. *That a report evaluating the CIL process, including the proposed prospectus for the next round of funding, be added to the Forward Plan for a Cabinet meeting in the Autumn 2023.*

2.2 The Record of Decision was published on 28 July 2023, with the call-in period set to expire on the 4 August 2023; during this time a call-in request was received. This is attached at Appendix 1 to the report, following its acceptance by the Proper Officer.

For information, the only constitutional requirements that must be met in submitting a call-in request are as follows:

'Such a request must be made in writing and must state the reason the call-in is believed to be necessary, and the desired outcome of the decision's review' (Part C2, Rule 13.4, 13.4.3 (b)).

The Constitution also states that:

'At the meeting, the Members calling in the decision should make themselves available for questioning and will be able to take part in the debate as non-voting Members of the Committee if they are not a Member of the Committee' (Part C2, Rule 13.4, 13.4.4).

2.3 The options available to the Committee in reviewing the decision made are outlined below, with a table underneath demonstrating the resulting actions from each option.

- a) Agree that no further action is required; OR
- b) Recommend an alternative decision for consideration by the Executive;
OR
- c) Recommend that the decision be reviewed by Full Council.

OSC Options	Next Steps	Decision Implementation
Review original decision made and agree that no further action is required.	No further action required.	Cabinet Informed. Decision to be implemented straight after the Overview and Scrutiny Meeting.
Recommend an alternative decision to the Cabinet.	Cabinet to consider alternative decision. Either the original decision remains, or an amended decision is issued.	Decision implemented straight after the Cabinet's re-consideration. (Decision is final)
Recommend that the decision be reviewed by Full Council.	Council review the decision and either agree with the original decision or recommend an alternative decision. Cabinet to consider alternative decision; either the original decision remains, or an amended decision is issued.	Decision implemented after the Cabinet's re-consideration. (Decision is final)

2.4 The information relating to the Cabinet's decision has been included within the appendices to this report.

3. AVAILABLE OPTIONS

3.1 Option 1 – Agree that no further action is required.

In this instance, the Cabinet will be formally informed with the original decision to be implemented immediately following the Overview and Scrutiny Committee Meeting.

3.2 Option 2 – Recommend an alternative decision to the Cabinet.

In this instance, the Cabinet will receive formal notification of the Committee's recommendations at its next meeting (likely an additional meeting). The Committee must include the nature of its concerns to supplement the alternative decision.

The Cabinet will consider the recommendations made by the Committee and either the original decision or an amended decision will be issued as a result. Once this has taken place, the decision reached is final and will not be subject to call-in.

3.3 Option 3 – Recommend that the decision be reviewed by Full Council.

In this instance, the Committee would refer the decision to the full Council. The Council would then be able to:

- d) Agree that no further action is required; OR
- e) Recommend an alternative decision for consideration by the Executive;

However, similarly to the Overview and Scrutiny Committee, the Council can only advise the Cabinet on which course of action to take. As the original decision made relates to an executive function (CIL funding provision), the Cabinet is the final decision-maker.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 There is no preferred option from an Officer perspective, as this report aims to support the Committee in reviewing the Cabinet decision submitted for Call-In.

5. RISK

- 5.1 This report is presented for information only and has no risk management implications.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 This Committee has not previously considered the matter. In accordance with the Council's governance arrangements, the Planning, Infrastructure and Economic Development Environment Policy Advisory Committee (PIED

PAC) conducted the pre-decision scrutiny on the item (7 June 2023), before the issue was presented to the Executive for decision.

6.2 Since the Cabinet's decision, a live matter under consideration has led to newly provided advice being provided (Appendix 5) for the Committee to consider.

6.3 The relevant papers for the PIED PAC agenda can be accessed using the link at Section 9 of the report.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 Given the number of options available, the next steps depend on the option chosen by the Committee. See section 3 for the resulting actions for each option.

8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix 1: Call-In Request
- Appendix 2: Record of Decision (Cabinet)
- Appendix 3: Papers as provided to the Cabinet for the 26 July 2023 meeting.
 - 3a: Report;
 - 3b: Appendices; and
 - 3c: Urgent Update
- Appendix 4: Excerpt of the Minutes of the Planning, Infrastructure and Economic Development Policy Advisory Committee Meeting held on 7 June 2023.
- Appendix 5 (New Information): Urgent Update Report regarding the 'call in' of the Cabinet decision not to award CIL monies toward the improvement of Linton Crossroads

9. BACKGROUND PAPERS

Agenda Papers for the Planning, Infrastructure and Economic Development Policy Advisory Committee Meeting held on 7 June 2023:

[Your Councillors - Maidstone Borough Council](#)