

Email Response from Monitoring Officer to Call-in Request

Dear Stuart

Thank you for your email.

Just to confirm, the Call-In request has been received in time and the requisite number of signatures has accompanied the request. Your further email outlines the Grounds for Call-In and, as you will be aware, my role is to consider whether the Call-In request is valid in accordance with Paragraph 2.69 of the Constitution.

In terms of your Grounds, and having regard to the Constitutional criteria, my view is as follows:

1. Lack of consultation

I do not follow your point that the absence of consultation led to Members predetermining the decision. Predetermination, in the context of public decision-making, is concerned with comments made or stated positions prior to the decision being made. I see no evidence of that. I believe what you are saying is that the plans outlined in the Cabinet report and specifically the recommendations about the 'development of a scheme' to designate the Council's land as a Country Park should have been subject to a consultation. Clearly any Scheme will need further approval by Cabinet and I would anticipate that such a Scheme would need consultation; I also note that the Report outlines the engagement of local Members, including yourself, in the proposals considered by Cabinet.

You seem to be saying that the development of a Scheme needed public consultation before Cabinet considered it. I do not see that that was a legal requirement nor were Cabinet under any other obligation to undertake a wider consultation on a request for officers to develop a Scheme over a reduced area.

I therefore do not consider that this point is a valid request for Call-In having regard to the grounds in the Constitution.

2. Insufficient scrutiny and alternative legal advice

I do not consider that this element of your request is valid. The material elements of the earlier decision taken by the legacy Council were outlined to Cabinet. The Council had taken independent advice about the status of the Country Park given this had been queried by a planning applicant. That advice – as outlined by Nick Graham, the Director of Legal & Democratic Services, at Cabinet – was that an essential element of the statutory framework had not been undertaken by the legacy Council and therefore Buckinghamshire Council could not rely on the powers in the relevant legislation to make, maintain and enlarge a Country Park.

I accept that you may take a different view but the Cabinet is entitled to rely on the advice provided through its legal officers. I fail to see that any advice taken by the legacy Council in 2017 would be relevant given to what Cabinet were being asked to determine: the decision was taken some years ago and would not have been addressing any failure to adhere to the statutory requirements, which was the purpose of the current advice.

I do not see that you have established that this element of your request is a valid ground for Call-In.

3. BC unable to deliver SANG requirements

I note the points raised in this element of your request. It is unfortunate that these were not raised earlier with officers or, as far as I can see, at Cabinet. The issues are of a technical nature and I have asked Steve Bambrick, Director for Planning, to consider these further and provide a report to Scrutiny on these points.

I am, however, content to consider this third point as a valid ground for Call-In.

In terms of the Constitutional provisions in relation to the process for the Call-In, these are found in section G (2) (Select Committee Procedure Rules) paras 2.60 – 2.89. In summary:

- If the request for Call In is determined as valid then it will then come to the next meeting of the appropriate Select Committee
- Two Cllrs who called in the decision should be present at the Select Committee
- The Committee can then take advice on the validity of the Call In Notice
- The Committee can question officers and Cabinet Members on the issue
- If the Committee accepts the Call In there are number of options, one of which is to refer the matter back to Cabinet for reconsideration or to confirm they are satisfied with the original decision
- If the Select Committee accept the original decision then it becomes immediately effective
- If they refer the matter to Cabinet with a recommendation then there are number of options open to Cabinet, including seeking more info, referring to Council etc.

I consider that the appropriate Select Committee is Growth, Infrastructure and Housing Select Committee. I will liaise further with Kelly Sutherland with a view to arranging the consideration of the Call-In request, together with this response and the report from Steve Bambrick, at the next scheduled GIH Select Committee.

Regards

Sarah