

OVERVIEW AND SCRUTINY COMMISSION

Agenda Item 91

Brighton & Hove City Council

Subject:	Request for Call-in of the 12 February 2009 Cabinet Decision on the Disposal of the Ice Rink, Queen Square		
Date of Meeting:	03 March 2009		
Report of:	The Director of Strategy and Governance		
Contact Officer:	Name: Tom Hook	Tel: 29-1110	
	E-mail: Tom.hook@brighton-hove.gov.uk		
Wards Affected:	St Peters & North Laine		

FOR GENERAL RELEASE

Note:

The Special Circumstances for non-compliance with council Procedure Rule 23, access to Information and Section 100B(4) of the Local Government Act as amended (items not considered unless the agenda is open for inspection at least 5 days in advance of the meeting) are that the additional information supplied by the Director of Finance and Resources was not available in time for the despatch of the agenda.

1. SUMMARY AND POLICY CONTEXT:

- 1.1 To determine whether to ask the Cabinet to reconsider its decision in relation to the disposal of the Ice Rink, Queen Square, which was taken at the 12 February 2009 Cabinet meeting.
- 1.2 The following information is contained in the appendices to this report:
 - (a) **Appendix 1** to the report contains the Call-In request;
 - (b) **Appendix 2** to the report contains an extract from the draft minutes from the Cabinet meeting of 12 Feb 2009;
 - (b) **Appendix 3** to the report contains the official record of the Cabinet's decision on this matter;
 - (c) **Appendix 4** to the report contains the report from the Director of Finance and Resources which was agreed at the 12 February 2009 Cabinet meeting (including a map of the site appended to the original report);

(d) **Appendix 5** to the report contains confidential material presented to the 12 February Cabinet meeting;

(e) **Appendix 6** to the report contains further information on this issue supplied by the Director of Finance and Resources.

2. RECOMMENDATIONS:

- 2.1 (a) To note the decision taken by the Cabinet on February 12 2009 in relation to the disposal of the Ice Rink, Queen Square;
- (b) To note the subsequent Call-In request;
- (c) To note the additional information supplied by the Director of Finance and Resources.
- 2.2 Having regard to the grounds for Call-In, to determine whether to refer the decision back to the Cabinet for reconsideration.

3. BACKGROUND INFORMATION

- 3.1 On February 12 2009, the Cabinet agreed a report on plans for the disposal of the former Ice Rink, Queen Square. (This report is reprinted in **Appendix 4** and confidential elements of the report in **Appendix 5**. An extract from the draft minutes is printed as **Appendix 2** to this report, and the official record of the Cabinet's decision is printed as **Appendix 3**).
- 3.2 Further information relating to this matter has been provided by the Director of Finance and Resources (this is contained in **Appendix 6** to this report).
- 3.3 On February 17 2009, Councillors Pete West, Amy Kennedy, Ian Davey, Georgia Wrighton, Jason Kitcat, Keith Taylor, Sven Rufus, Bill Randall, Rachel Fryer, Vicky Wakefield-Jarrett, Paul Steedman and Ben Duncan wrote to the Chief Executive, requesting that the Cabinet Decision be called in. (The Call-In request is reprinted as **Appendix 1** to this report.)
- 3.4 The Chief Executive accepted the Call-In request on 20 February 2009 and asked for a Special Meeting of the Overview & Scrutiny Commission to be called within seven working days.

- 3.5 Call-In is the process by which Overview & Scrutiny Committees can recommend that a decision made (in connection with Executive functions) but not yet implemented be reconsidered by the body which originally took the decision.
- 3.6 Call-In should only be used in exceptional circumstances, for instance where there is evidence that an important decision was not taken in accordance with the Council's constitution.
- 3.7 An Overview & Scrutiny Committee examining a decision which has been Called-In does not have the option of substituting its own decision for that of the original decision. The Overview & Scrutiny Committee may only determine whether or not to refer the matter back to the original decision making body for reconsideration.
- 3.8 In determining whether to refer a decision back to its originating body for reconsideration, the Overview & Scrutiny Committee should have regard to the criteria for Scrutiny reviews, as set out in the Council's constitution (Part 6.4.2). In addition, the Committee should take into account:
- Any further information which may have become available since the decision was made
 - The implications of any delay; and
 - Whether reconsideration is likely to result in a different decision.
- 3.9 More information about the Call-In process is contained in the Council's constitution (Part 6.16).

4. CONSULTATION

- 4.1 No formal consultation has been undertaken in regard to this report.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 Implications of any delay

As a land owner, the Council are obliged to make best use of their assets and have an obligation to achieve the "best consideration," reasonably obtainable, as set out in the legal implications in the Cabinet report. A strict timetable has been set down for the developer to meet after Cabinet approval had been granted, as the disposal is

subject to planning consent and contract which is customary for property disposals. A referral back to Cabinet would delay the start of the consultation and planning process by the developer and could have a knock on effect in delaying the capital receipt.

Delay might also have the effect of dissuading the developer or the other short listed bidders from continuing with their interest in the site. Failure to proceed swiftly with the disposal may further risk the loss of the opportunity to redevelop the site and capital receipt. It could also jeopardize the future prospects of redeveloping this derelict site as the recession worsens.

Legal Implications:

- 5.2 Under the Council's Overview and Scrutiny Procedure Rules 16.8, if the Committee has ongoing concerns, it has power to refer the decision back to Cabinet for reconsideration, setting out those concerns. Where the Committee wishes to discuss matters raised in a Part 2 report it will be necessary to hear those issues in Part 2 session.

Equalities Implications:

- 5.3 There are no direct equalities implications to this report, although the 12 February 2009 Cabinet decision was made with regard to the equalities implications contained within the original report of the Director of Finance and Resources (see **appendix 4**).

Sustainability Implications:

- 5.4 There are no direct sustainability implications to this report, although the 12 February 2009 Cabinet decision was made with regard to the sustainability implications contained within the original report of the Director of Finance and Resources (see **appendix 4**).

Crime & Disorder Implications:

- 5.5 There are no direct crime & disorder implications to this report, although the 12 February 2009 Cabinet decision was made with regard to the crime & disorder implications contained within the original report of the Director of Finance and Resources (see **appendix 4**).

Risk and Opportunity Management Implications:

- 5.6 The Call-In procedure seeks to provide a system via which important decisions can be re-examined in a timely fashion, so as to ensure that the Council is not unnecessarily exposed to risk associated with taking decisions contrary to established procedure, whilst also minimising risk inherent in unduly delaying the decision making process.

Corporate / Citywide Implications:

- 5.7 The decision on how to dispose of the Ice Rink is a significant one as the appropriate disposal/development of this important city centre site could serve to boost the city's economy.

SUPPORTING DOCUMENTATION

Appendices:

1. The request for Call-In;
2. An extract from the draft minutes of the 12 February 2009 Cabinet meeting;
3. The official record of the Cabinet decision in relation to this report;
4. The Director of Finance and Resources report (to the 12 February 2009 cabinet meeting): Ice Rink, Queen Square - Update on Disposal;
5. Confidential information relating to the Ice Rink, Queen Square - Update on Disposal report;
6. Additional information on this matter from the Director of Finance and Resources, with Annexes.

Documents in Members' Rooms:

There are none.

Background Documents:

1. The Council's constitution (May 2008).

