

## OVERVIEW AND SCRUTINY BOARD

5<sup>th</sup> JANUARY 2005

<b>CALL-IN PROCEDURE – BEECHWOOD BMX</b>
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<b>Richard Long, Director of Legal &amp; Democratic Services</b>
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### 1. PURPOSE OF REPORT

In view of the change in circumstances since the original decision was called-in, I consider it appropriate that guidance be given to Members.

### 2. BACKGROUND

- 2.1 The original decision by Councillor Coppinger to approve the BMX track was made on the 17<sup>th</sup> December. The decision was subsequently the subject of a call-in instigated by Councillor McTigue who was supported by five other Councillors.
- 2.2 Since the call-in procedures were commenced I have received formal notification from Councillor Rogers and Sanderson that they have withdrawn their support for the call-in.

### 3. LEGISLATION

- 3.1 The law relating to Overview and Scrutiny Committees is contained in the Local Government Act 2000.
- 3.2 The Act provides that every authority with executive arrangements must have one or more Overview and Scrutiny Committee. Such Committee or Committees must have the power to review or scrutinise decisions taken by the Executive. Further the Committee may recommend that the decision be reconsidered by the person who made it or it may arrange for the full Council to carry out the function of reviewing the decision.

## 4. GUIDANCE

- 4.1 The Government have issued detailed guidance, some of which is statutory guidance, dealing with all aspects of executive arrangements. There is considerable guidance in respect of call-in, the most relevant being:

“Local Authorities should make provision in their executive arrangements as to how these procedures are to operate. Such provisions may include a standard period of delay before decisions are implemented. Those provisions should ensure that there is an appropriate balance between effectively holding the executive to account, being able to question decisions before they are implemented and allowing effective and efficient decision making by the executive within the policy framework and budget agreed by the full Council. The provisions should ensure that a decision-maker could only be asked to reconsider a decision once. Day-to-day management and operational decisions taken by officers should not be subject to any call-in procedure.”

“Local Authorities should ensure that the executive arrangements ensure that any call-in procedure is not abused or used unduly to delay decisions or slow down the process of decision making. In particular, the executive will, from time to time, need to take decisions, which need to be implemented quickly. Local authorities will need to develop local conventions and protocols to prevent abuse of an overview and scrutiny committee’s power to recommend that a decision made, but not yet implemented, be reconsidered. Local authorities should keep the operation of any call-in arrangements under review to ensure that they are not abused with an associated negative effect on the efficiency of executive decision making.”

“Local authorities will need to consider, when designing such mechanisms, that under normal circumstances where a decision relates to a function which is the responsibility of the executive, ultimately only the executive can decide the matter.”

## 5. THE CONSTITUTION

The Overview and Scrutiny Procedure Rules in the Constitution provide as follows:

“15. **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 an area committee 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 2 working days of being made. Chairs of the Overview and Scrutiny Board and all relevant 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) That 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 publication of the decision, unless the decision becomes subject to the call-in procedure.
- (c) During that 5 working day period, the Proper Officer shall call-in a decision for scrutiny by the Overview and Scrutiny Board if so requested by any 5 members of the Council. Any such request to call-in a decision must be received by the Proper Officer before the end of the third working day after the making of that decision. The Proper Officer shall then notify the decision-taker of the call-in and will call a meeting of the Overview and Scrutiny Board on such date as he/she may determine, where possible after consultation with the Chair of the Overview and Scrutiny Board, and in any case no sooner than 8 working days of the decision to call-in.
- (d) If, having considered the decision, the Overview and Scrutiny Board 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. If a decision is so referred, then the decision-maker shall reconsider the decision within a further 10 working days, amending the decision or not, before adopting a final decision. If the recommendations of the Overview and Scrutiny Board are not accepted in full, then the decision-maker should notify the Overview and Scrutiny Board and give reasons for not accepting the recommendations.”

## 6. CONCLUSION

- 6.1 Quite clearly at the time the Proper Officer called in the decision at least five members of the Council had requested call-in. Therefore, the actual call-in was made in accordance with provisions of the legislation, the statutory guidance and the constitution.
- 6.2 The decision whether to review a decision of the Executive is made by the Overview and Scrutiny Board and not the five members who requested the call-in nor the Proper Officer who, technically, called-in the decision. The call-in procedure is a “trigger” to enable the Overview and Scrutiny Board to give consideration to the matter. The fact that subsequent to the decision to call-in, two members have withdrawn their support does not invalidate the process, but nevertheless, is a factor that can be taken into account by the Board when considering the matter.

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