

# Supplementary Committee Agenda



## **Overview and Scrutiny Committee Tuesday, 17th July, 2012**

**Place:** Council Chamber, Civic Offices, High Street, Epping

**Time:** 7.30 pm

**Committee Secretary:** Simon Hill, Senior Democratic Services Officer, The Office of the Chief Executive  
email:democraticservices@eppingforestdc.gov.uk Tel: 01992 564249

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### **5.a Call-in for Asset Management and Economic Development Portfolio Holder Report (Pages 3 - 16)**

To consider a call-in of the Portfolio Holder's Decision on 'Pyrles Lane Nursery, Pyrles lane, Loughton' (AMED-002-2012/13). Call-in papers and report are attached.

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## **Report to Overview & Scrutiny Committee**

**Date of meeting: 17 July 2012**

**Portfolio:** Asset Management & Economic Development

**Subject:** Call in – Pyrles Lane Nursery, Pyrles Lane, Loughton



**Officer contact for further information:** Adrian Hendry / Chris Pasterfield

**Committee Secretary:** Adrian Hendry – Ext 4246

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### **Recommendations/Decisions Required:**

**To consider the call-in of Portfolio Holders decision AMED-002-2012/13 regarding the outline planning application for the redevelopment of Pyrles Lane Nursery for residential use.**

### **Report:**

1. In accordance with rule 20 of the Overview and Scrutiny Rules, 5 members have called in the Portfolio Holder's decision, taken on 28 June 2012 and published on 06 July 2012. This decision relates to the Portfolio Holder's decision that the site be sold for a substantial capital receipt subject to the service being re-located to a new depot for Grounds Maintenance.
2. The Chairman of the Overview and Scrutiny Committee determined that consideration of the call-in should be referred to this meeting of the Overview and Scrutiny Committee.
3. Attached to this report are:
  - (a) Copy of the report;
  - (b) A copy of the notification of the call in including the names of the relevant Councillors who requested the call in and their grounds for so doing; and
  - (c) A copy of an extract of the Council's procedures for dealing with call-ins.

### **Consideration of the Call – in**

4. In accordance with the Council's Protocol (attached) the consideration of call-ins by the Committee should be considered in the following manner:
  - (a) the representative of the Councillors calling in the decision shall describe their concerns;
  - (b) the Portfolio Holder shall then respond;

- (c) the Overview and Scrutiny Committee or delegated Panel will then debate the issues involved. The Chairman of the meeting shall have the discretion to vary the way in which evidence is gathered including speakers and public participation if appropriate but shall seek a response from the initiating Councillor(s) and the Portfolio Holder before formulating its recommendations;
- (d) The Overview and Scrutiny Committee or delegated Panel has the following options:
- (i) confirm the decision, which may then be implemented immediately; or
  - (ii) refer the decision back to the decision taker for further consideration setting out in writing the nature of its concerns; or
  - (iii) refer the matter to full Council in the event that the Committee or Panel considers the decision to be contrary to the policy framework of the Council or contrary to, or not wholly in accordance with, the budget.
- (e) If it appears that the review of a decision of the Executive cannot be completed at one meeting, the Executive or decision taker will be informed, indicating any preliminary views the Committee or Panel may have and a proposed timescale for the completion of the review. The Chairman of the Overview and Scrutiny Committee/Panel shall, if necessary, consult with the Leader of the Council regarding the urgency of the proposed decision or any other related matter;
- (f) The Chairman of the Overview and Scrutiny Committee or delegated Panel shall sum up the recommendations to be submitted to the Executive and these shall be incorporated in full in the Minutes or report of the meeting;
- (g) In cases where the Overview and Scrutiny Committee or delegated Panel determines that a review of the decision is not justified or that, having reviewed the decision of the Executive, it has no adverse comment to make, the Committee or Panel shall ensure that its decision is published in the Members' Bulletin;
- (h) In the circumstances outlined in (g) above, the decision of the Executive or Decision Taker may be implemented with effect from the date of that meeting;
- (i) A report detailing any appropriate recommendations of the Overview and Scrutiny Committee or delegated Panel shall be reported to the Decision Taker
- (j) In presenting the recommendations of the Overview and Scrutiny Committee or delegated Panel, the Chairman may make general comments on the Committee's / Panel's recommendations, answer questions and respond to comments or new proposals made by the Executive at that meeting; and
- (k) The report of the Overview and Scrutiny Committee or delegated Panel shall be sent in draft to all its Members for approval prior to their submission to the Decision Taker.
- (l) Minority reports may be made by members of Overview and Scrutiny Committee or delegated Panel in accordance with the Protocol for that purpose.

5. If, having considered the decision, the Overview and Scrutiny Committee or delegated Panel is still concerned about it, then it may, subject to the procedures outlined in Rule 16(a) or (b) in attached, 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 to the decision maker they shall then reconsider within a further 5 working days, or in the case of a Cabinet decision, as soon as practically possible amending the decision or not, before adopting a final decision.

6. 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 power 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 taken by the Executive as a whole or a committee of it, a meeting will be convened to reconsider within 14 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 14 working days of the Council request.

7. 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.

8. The Committee are asked to consider the decision taken by the Portfolio Holder and report accordingly.

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**EPPING FOREST DISTRICT COUNCIL**

**Notification Of Call – In Of Cabinet Or Portfolio Holder Decision Under Rule 20  
(8) (Page J13 of the Constitution) of The Overview And Scrutiny Rules**

*This form must be signed and completed and the original returned to the proper officer in person no later than the 5<sup>th</sup> working day following publication of the decision*

<b>Decision to be called-in: Pyrles Lane Nursery, Pyrles Lane, Loughton</b>
<b>Decision reference: AMED-002-2012/13</b>
<b>Portfolio:</b> <b>Asset Management and Economic Development</b>
<b>Description of Decision:</b>  <b>To submit an outline planning application for the redevelopment of Pyrles Lane Nursery for residential use.</b>
<b>Reason for Call – in</b>  <ol style="list-style-type: none"> <li><b>1. Lack of consultation with ward members.</b></li> <li><b>2. Concern about road safety for vehicles and pedestrians going to/from the site.</b></li> <li><b>3. Approximately two thirds of site is designated as urban open space on the current Local Plan so the proposal pre-empts consultation on the new Local Plan.</b></li> <li><b>4. Has there been a cost benefit analysis on the future of the nursery?</b></li> </ol>

**Members requesting call – in (3 members of the Overview and Scrutiny Committee or 5 other members)**

<b>Members Name:</b>	<b>Signed:</b>
<b>Lead member:</b> <b>David Wixley</b>	
<b>Ken Angold-Stephens</b>	
<b>Caroline Pond</b>	
<b>Tessa Cochrane</b>	
<b>Jennie Hart</b>	
<b>Office Use Only: Date Received: 11 July 2012 by IW</b>	

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## Decision by Portfolio Holder



**Report reference: AMED-002-2012/13**

**Date of report: 28 June 2012**

**Epping Forest  
District Council**

**Portfolio: Asset Management and Economic Development**

**Author: Chris Pasterfield (Ext 4124)**

**Democratic Services: R Perrin**

**Subject: Pyrles Lane Nursery, Pyrles Lane, Loughton**

**Decision:**

**To submit an outline planning application for the redevelopment of Pyrles Lane nursery for residential use.**

<b>ADVISORY NOTICE:</b> <i>A Portfolio Holder may not take a decision on a matter on which he/she has declared a prejudicial interest. A Portfolio Holder with a personal interest must declare that interest when exercising delegated powers.</i>	
I have read and approve/ <del>do not approve</del> (delete as appropriate) the above decision:	
Comments/further action required:	
Signed: Cllr Grigg	Date: 28.06.12
<i>Personal interest declared by Portfolio Holder/ conflict of interest declared by any other consulted Cabinet Member:</i>  None	<i>Dispensation granted by Standards Committee:</i> Yes/No or n/a
<b>Office use only:</b> Call-in period begins: 06.07.12	Expiry of Call-in period: 12.07.12

***After completion, one copy of this pro forma should be returned to  
Democratic Services IMMEDIATELY***

### Reason for decision:

That the site be sold for a substantial capital receipt subject to the service being re-located to a new depot for Grounds Maintenance in Oakwood Hill.

### Options considered and rejected:

To keep service located at Pyrles Lane.

### Background Report:

At the 30 January 2012 the Cabinet gave approval to DDF expenditure which included £9,000

for consultants to complete the planning application for Pyrles Lane Nursery.

**Resource Implications:** Fees will be paid from existing consultant fees allocated from DDF funding agreed at Cabinet on 30 January 2012.

**Legal and Governance Implications:** None

**Safer, Cleaner and Greener Implications:** None

**Consultation Undertaken:**

Asset Management Co-ordination Group.

The Portfolio Holder has met with local members to explain the outline of the scheme.

**Background Papers:** N/A

**Impact Assessments:**

Risk Management

Equality and Diversity:

None

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties; reveal any potentially adverse equality implications?

No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken?

No

What equality implications were identified through the Equality Impact Assessment process?

No

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?

N/A

**Key Decision Reference (Y/N):** N

**PROTOCOL ON CONSIDERATION AND REPORTING ON EXECUTIVE DECISIONS  
CALLED IN BY OVERVIEW AND SCRUTINY****1. Purpose of Protocol**

- (a) To codify how the Overview and Scrutiny Committee or delegated Panel should deal with "call in" items.
- (b) To codify how the Executive should respond to reports by Overview and Scrutiny on decisions which have been called in.

**2. Validation of "Call In"**

- 2.1 All "call in" requests shall be made in writing in accordance with the Council's constitution. "Call in" requests shall only be made by members of the Council who are not members of the Executive. The "call in" shall be validated by the Chief Executive and referred to the Overview and Scrutiny Committee for consideration in accordance with the provisions of the constitution.

**3. Consideration of "Call In" Items by Overview and Scrutiny Committee**

- 3.1 Consideration of Call-ins shall be the responsibility of the Overview and Scrutiny Committee which will decide whether to consider the issue itself or direct a Panel to undertake it and report back to the decision maker. "Call in" items shall be referred to the next available date for the Overview and Scrutiny Committee or delegated Panel. The provisions of the Overview and Scrutiny Rules in the Council's constitution will apply to "call in" requests which need to be dealt with more quickly.
- 3.2 At its meeting, the Overview and Scrutiny Committee or delegated Panel will receive:
  - (a) copies of all documentation submitted to the Executive on which the decision was based;
  - (b) a copy of the written notification of the "call in" including the names of the relevant Councillors who requested the "call in" and their grounds for so doing; and
  - (c) any other relevant documentation.
- 3.3 The relevant Executive Portfolio Holder and at least one of the members who activated the "call in" and who shall act as spokesperson for those members, shall attend the Overview and Scrutiny Committee or delegated Panel meeting.
- 3.4 The "call in" decision shall be considered in the following manner:
  - (a) the representative of the Councillors calling in the decision shall describe their concerns;
  - (b) the Portfolio Holder shall then respond

- (c) the Overview and Scrutiny Committee or delegated Panel will then debate the issues involved. The Chairman of the meeting shall have the discretion to vary the way in which evidence is gathered including speakers and public participation if appropriate but shall seek a response from the initiating Councillor(s) and the Portfolio Holder before formulating its recommendations;
- (d) The Overview and Scrutiny Committee or delegated Panel has the following options:
- (i) confirm the decision, which may then be implemented immediately, or
  - (ii) refer the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or
  - (iii) refer the matter to full Council in the event that the Committee or Panel considers the decision to be contrary to the policy framework of the Council or contrary to, or not wholly in accordance with, the budget.
- (e) If it appears that the review of a decision of the Executive cannot be completed at one meeting, the Executive or decision taker will be informed, indicating any preliminary views the Committee or Panel may have and a proposed timescale for the completion of the review. The Chairman of the Overview and Scrutiny Committee/Panel shall, if necessary, consult with the Leader of the Council regarding the urgency of the proposed decision or any other related matter;
- (f) The Chairman of the Overview and Scrutiny Committee or delegated Panel shall sum up the recommendations to be submitted to the Executive and these shall be incorporated in full in the Minutes or report of the meeting;
- (g) In cases where the Overview and Scrutiny Committee or delegated Panel determines that a review of the decision is not justified or that, having reviewed the decision of the Executive, it has no adverse comment to make, the Committee or Panel shall ensure that its decision is published in the Members' Bulletin;
- (h) In the circumstances outlined in (g) above, the decision of the Executive or Decision Taker may be implemented with effect from the date of that meeting;
- (i) A report detailing any appropriate recommendations of the Overview and Scrutiny Committee or delegated Panel shall be reported to the Decision Taker
- (j) In presenting the recommendations of the Overview and Scrutiny Committee or delegated Panel, the Chairman may make general comments on the Committee's/Panel's recommendations, answer questions and respond to comments or new proposals made by the Executive at that meeting; and
- (k) The report of the Overview and Scrutiny Committee or delegated Panel shall be sent in draft to all its Members for approval prior to their submission to the Decision Taker.
- (l) Minority reports may be made by members of Overview and Scrutiny Committee or delegated Panel in accordance with the Protocol for that purpose.

#### **4. Consideration of Reports on "Call In" Items by the Executive**

- 4.1 The report of an Overview and Scrutiny Committee or delegated Panel will be referred in the first instance to the relevant Portfolio Holder(s) for the executive function concerned.
- 4.2 If the Executive decision is one which the Portfolio Holder(s) has delegated powers to make, he or she shall consider the written proposals of the Overview and Scrutiny Committee or delegated Panel, must consult the Overview and Scrutiny Committee and delegated Panel Chairmen if he or she is minded to accept or reject them. In doing so the Portfolio Holder will ensure that, in recording that decision, the reasons for accepting, rejecting or amending those views are set out in the decision notice.
- 4.3 If the Executive decision is one which the Executive itself or a Committee of the Executive (acting under delegated powers) is competent to take, the relevant Portfolio Holder will consider the proposals of the Overview and Scrutiny Committee or delegated Panel and refer them, with his or her written response, to the decision making body concerned.
- 4.4 At a meeting of the Executive or of any Committee of the Executive, the following documentation shall be submitted:
- (a) the agreed report of the Overview and Scrutiny Committee or delegated Panel and any other supporting documents considered by it;
  - (b) a report of the Portfolio Holder indicating the response to the proposals of the Overview and Scrutiny Committee or delegated Panel, indicating the options available and recommendation for acceptance, rejection or alteration of those proposals with reasons; and
  - (c) any other information.
- 4.5 The Executive or Committee of the Executive shall consider the matter as follows:
- (a) the Chairman of the Overview and Scrutiny Committee or delegated Panel shall present the views and recommendations of the Committee/Panel based on the report of the relevant OSC meeting and respond to questions, make general comments and respond to new proposals as appropriate;
  - (b) the relevant Portfolio Holder shall then respond by presenting his report and recommendations on the proposals of the Overview and Scrutiny Committee or delegated Panel;
  - (c) the Executive (or Committee thereof) shall then consider the original decision, the views of the Overview and Scrutiny Committee or delegated Panel and any proposals by the Portfolio Holder; and
  - (d) the Executive (or Executive Committee) will then make a final decision on whether to re-affirm the original decision, amend the original decision or substitute a new decision. This decision shall be recorded in the minutes of the meeting together with supporting reasons.
- 4.6 Where a Committee of the Executive is required to report to the full Executive on any matter, it shall submit a recommendation on action proposed to the Executive as part of the minutes of the meeting.

## **5. Implementation of Decisions When Cabinet Control or Membership Changes**

- 5.1 Notwithstanding the provisions of paragraphs 3.4(g) and (h) above, where political control of the Cabinet or Cabinet membership changes following the Annual Council meeting each year, any decision made by the Executive and supported by the Overview and Scrutiny Committee or delegated Panel following a "call-in" but not implemented before the changes occur, shall stand referred to the Cabinet for further review before action is taken.

## **6. Consideration of "Call In" Reports of Overview and Scrutiny Committees made to the Full Council**

- 6.1 In some circumstances, the Overview and Scrutiny Committee or delegated Panel may choose to refer the results of their consideration of "call in" items to the full Council, rather than the Executive in those instances set out in paragraph 3.4 (d) (iii) above and 6.2 below. With any necessary modification the "call in" shall be dealt with at the Council meeting in accordance with paragraphs 4.1 - 4.5 above.
- 6.2 In considering whether to report to the full Council, the Overview and Scrutiny Committee or delegated Panel shall take account of the advice of the proper officer on:
- (a) whether the Council may properly determine the matter if the function is delegated to the Executive;
  - (b) whether the Executive decision affects the policy or budget framework of the Authority and should properly be determined by the Council;
  - (c) whether the Executive decision relates to a matter which either reserved to the full Council by the constitution or by resolution; and
  - (d) any other advice which indicates that, for whatever reason, a report to the Executive is more appropriate to the proper despatch of Council business.

## **7. Restriction on "Call In"**

- 7.1 The Overview and Scrutiny Committee shall at all times be aware that the decisions of the regulatory or non-executive bodies of the Council are not subject to "call in".
- 7.2 The "call in" procedure shall also not apply to any recommendation by the Cabinet to the full Council.

## **8. Definitions**

8.1 For the purpose of this Protocol, the following definitions shall apply:

### **(a) "Executive"**

This term should be interpreted as referring to the Cabinet, a Cabinet Committee or an individual Portfolio Holder acting under delegated powers.

### **(b) "Decision"**

Denotes a decision on an Executive function by the Cabinet, a Committee of the Cabinet or of an individual Portfolio Holder.

### **(c) "Decision Taker"**

This means the Cabinet, a Cabinet Committee or an individual Portfolio Holder who made the original decision.

## **9. Review of Protocol**

9.1 This Protocol will be reviewed by the Council as part of its constitution as and when appropriate.

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