

**Report to Overview & Scrutiny  
Committee  
Date of meeting: 8 November 2007**

**Portfolio:** Finance, Performance Management and Corporate Support Services.

**Subject:** Release of Restrictive Covenant - Loughton Hall, Epping Forest College, Loughton



**Officer contact for further information:** Michael Shorten

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

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**Recommendations/Decisions Required:**

To consider the call – in of Cabinet decision C/059/2007-08 regarding the release of the restrictive covenant on Loughton Hall.

**Report:**

1. In accordance with rule 20 of the Overview and Scrutiny Rules 5 members have called in a Cabinet decision, taken on 8 October 2007 and published on 16 October 2007. This decision relates to the Cabinet consideration of a report regarding proposals for the release of a restrictive covenant to enable a provisionally arranged sale of Loughton Hall for use as a residential care home to proceed; and that the Council would not exercise its right of pre-emption to purchase Loughton Hall and/or the library site adjoining Epping Forest College; and the Cabinet approved the College's application and agreed that the restrictive covenant affecting Loughton Hall, within the grounds of Epping Forest College, be released and new covenants be imposed.
2. The Chairman of the Overview and Scrutiny Committee determined that consideration of the call should be referred to this meeting of the Overview and Scrutiny Committee.
3. Attached to this report are:
  - (a) Copies of all documentation submitted to the Cabinet on which the decision was based, plus a copy of the Cabinet's decision;
  - (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) 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 Cabinet and report accordingly.