



NOTTINGHAM CITY COUNCIL
OVERVIEW AND SCRUTINY - CALL IN PANEL

Date: Monday, 22 June 2015

Time: 1.00 pm

Place: LB31 - Loxley House, Station Street, Nottingham, NG2 3NG

Councillors are requested to attend the above meeting to transact the following business

Acting Corporate Director for Resources

Governance Officer: Rav Kalsi **Direct Dial:** 0115 8763759

AGENDA

Pages

- | | | |
|----------|--|-----------|
| 1 | APOLOGIES FOR ABSENCE | |
| 2 | DECLARATIONS OF INTERESTS | |
| 3 | CONFIRMATION OF VALIDITY OF CALL-IN
Report of Head of Democratic Services | 3 - 16 |
| 4 | CONSIDERATION OF CALL-IN REQUEST
Report of Head of Democratic Services | 17 - 18 |
| 5 | WOLLATON VALE SERVICE STATION, NG8 2GR - VARIATION OF USER CLAUSE
Report of the Interim Director of Strategic Asset and Property Management | To Follow |
| 6 | EXCLUSION OF THE PUBLIC
To consider excluding the public from the meeting during consideration of the remaining items in accordance with section 100a(4) of the Local Government Act 1972 on the basis that, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. | |

IF YOU NEED ANY ADVICE ON DECLARING AN INTEREST IN ANY ITEM ON THE AGENDA, PLEASE CONTACT THE GOVERNANCE OFFICER SHOWN ABOVE, IF POSSIBLE BEFORE THE DAY OF THE MEETING

CITIZENS ATTENDING MEETINGS ARE ASKED TO ARRIVE AT LEAST 15 MINUTES BEFORE THE START OF THE MEETING TO BE ISSUED WITH VISITOR BADGES

CITIZENS ARE ADVISED THAT THIS MEETING MAY BE RECORDED BY MEMBERS OF THE PUBLIC. ANY RECORDING OR REPORTING ON THIS MEETING SHOULD TAKE PLACE IN ACCORDANCE WITH THE COUNCIL'S POLICY ON RECORDING AND REPORTING ON PUBLIC MEETINGS, WHICH IS AVAILABLE AT WWW.NOTTINGHAMCITY.GOV.UK. INDIVIDUALS INTENDING TO RECORD THE MEETING ARE ASKED TO NOTIFY THE GOVERNANCE OFFICER SHOWN ABOVE IN ADVANCE.

OVERVIEW AND SCRUTINY COMMITTEE
22 JUNE 2015
CONFIRMATION OF VALIDITY OF CALL-IN REQUEST RELATING TO DELEGATED DECISION 2011- WOLLATON VALE SERVICE STATION, NG8 2GR – VARIATION OF USER CLAUSE
REPORT OF HEAD OF DEMOCRATIC SERVICES

1. Purpose

A call-in request relating to Delegated Decision 2011 Wollaton Vale Service Station, NG8 2GR, has been received. The purpose of this agenda item is to consider the validity of this call-in request.

2. Action required

The Committee is asked to confirm that the call-in request relating to Delegated Decision 2011 is valid.

3. Background information

- 3.1 The Council’s call-in procedure is set out in the Council’s Constitution. A guide to the call-in process is attached as an appendix to this report.
- 3.2 Delegated Decision 2011 – Wollaton Vale Service Station, NG8 2GR, was published on 28 May 2015, and the last date for call-in was 4 June 2015. A copy of the delegated decision is attached as an appendix to this report. The exempt appendix relating to the decision is included later on the agenda.
- 3.3 The Call-In Request Form was received by the Democratic Services Team on 4 June 2015 having been signed by Councillors Armstrong, Culley and Rule. A copy of the Call-In Request Form is attached as an appendix to this report. The Call-In Request Form identified the reasons for call-in as:

Relevant information not considered:

The variation of user clause will allow a much increased development of the site to include a larger retail unit to be open 24 hours selling alcohol and food in the centre of a residential area, where there is adequate provision for the sale of alcohol and food within nearby retail outlets. The site of the petrol station and shop backs onto residential properties.

Justification for the decision open to challenge on the basis of evidence considered:

There is no justification for having a retail outlet opening 24 hours at this particular site. Twenty four hours opening is inappropriate at this site given its close proximity to residential properties. The original planning permission for this site was for use as a petrol station and allied services. Not retail.

- 3.4 On the basis of the information provided, the Head of Democratic Services has confirmed the validity of the call-in request.

The Call-In Panel is asked to endorse this view.

4. **List of attached information**

The following information can be found in the appendices to this report

Appendix 1 – Overview and Scrutiny: Guide to Call-In

Appendix 2 – Delegated Decision 2011 – Wollaton Vale Service Station, NG8 2GR – Variation of User Clause

Appendix 3 – Call-in Request Form

5. **Background papers, other than published works or those disclosing exempt or confidential information**

None

6. **Published documents referred to in compiling this report**

Nottingham City Council's Constitution

<http://www.nottinghamcity.gov.uk/article/24275/Nottingham-City-Councils-Constitution>

7. **Wards affected**

Wollaton West

8. **Contact information**

Rav Kalsi

Senior Governance Officer

0115 8763759

rav.kalsi@nottinghamcity.gov.uk



overview and scrutiny: guide to call-in

what is call-in

Call-in is a mechanism for scrutinising Executive decisions. Overview and scrutiny has the power to ask for an Executive decision to be reconsidered if, during the five working days immediately following an Executive decision, valid concerns are raised about the way in which the decision has been taken, for example that relevant information was not considered. This power is set out in national legislation and arrangements for putting it into practice are in the Council's Constitution.

making a request to call-in a decision

All Executive decisions are published on the Council's website. Following publication of an Executive decision there is a period of five working days during which non-executive councillors can request that the decision be called-in. The decision is not allowed to be implemented until the period of five working days has expired.

Decisions that can be called-in are those of:

- The Executive Board
- A committee of the Executive Board
- An individual Portfolio Holder
- Executive decision made by an Area Committee
- Executive decisions (£10,000 or more) made by an officer under authority delegated by the Leader, Executive Board or a committee of the Executive Board or by an officer to officer sub-delegation of powers within the Council's Scheme of Delegation

with the exception of decisions made under the urgency procedure, which cannot be called-in.

Requests to call-in a decision must be made in writing using the Call-In Request Form and signed by three non-executive councillors. Copies of the Call-In Request Form are available from the Overview and Scrutiny Team (contact details at the end of this Guide) and on the Councillor Resource Centre intranet pages.

When requesting a decision is called-in, at least one of the following reasons must be cited, along with further explanation for the reason(s) given:

- The decision is outside the Council's policy and/or budgetary framework
- Inadequate consultation relating to the decision
- Relevant information not considered
- Viable alternatives not considered
- Justification for the decision to be open to challenge on the basis of the evidence considered.

what happens when a request to call-in a decision is received

The Head of Democratic Services is responsible for assessing the validity of call-in requests. If any doubt remains the Director of Legal and Democratic Services (the Council's Monitoring Officer) will make the decision on whether the request is valid or not. Defamatory and frivolous requests will be rejected.

At this time, the relevant decision-maker, Portfolio Holder, Director and contact colleague will be informed that implementation of the decision is suspended until the outcome of the call-in has been determined. If the suspended decision relates to a contract or other procurement issue, the Contract Procurement Manager should also be notified.

The Call-In Panel (a sub-committee of the Overview and Scrutiny Committee) is responsible for considering call-in requests. Therefore once a request is considered to be valid, a meeting of the Panel will be scheduled. This meeting must be held within seven working days of the receipt of the request, or at a later date if agreed by the Chair of Overview and Scrutiny.

meetings of the Call-In Panel

The purpose of the Call-In Panel meeting is to:

- a) Agree that the call-in is valid as set out in the Council's Constitution
- b) Consider whether the Executive decision should be referred back to the decision-maker for further consideration or whether it can be implemented.

Suggested procedure to be followed

When the meeting begins the Chair will:

1. Ask the Panel to agree whether the call-in is valid and agree the parameters for the discussion.
2. Ask the relevant Portfolio Holder to briefly outline details of, and reasons for their decision [suggested time: 10 minutes]
3. Ask a representative of the councillors who requested the call-in to briefly outline their concerns and reasons for these [suggested time: 10 minutes]
4. Ask the Portfolio Holder (and their supporting colleagues) to briefly respond to the points raised [suggested time: 10 minutes]

Members of the Call-In Panel will then discuss the call-in request, the decision and invite the Portfolio Holder and the councillors who requested the call-in to respond to any questions raised by the Panel.

The Chair will invite the Portfolio Holder and a representative of the councillors who requested the call-in to sum up any final comments [suggested time: 5 minutes each]. Following this, the Portfolio Holder (and their supporting colleagues) and the councillors who requested the call-in may leave the meeting if they chose to as they are not required to remain at the meeting during the deliberations.

Focusing on the reasons for the call-in as given in the Call-In Request Form, and based on the evidence from the Portfolio Holder and the councillors who requested the call-in, the Panel will then decide to either:

- a) Require that the decision is reconsidered, and make recommendation(s) as to what should be taken into consideration; or
- b) Agree that the decision does not need to be reconsidered and can be implemented.

In both cases, reasons will be given by the Panel for its decision.

If the Panel agrees that the decision should be reconsidered it can:

- a) Refer the decision back to the decision-maker for reconsideration; or
- b) Refer the decision to full Council if they feel that the decision made is contrary to the Council's policy and/or budgetary framework.

In addition, the Panel can make other relevant recommendations which will be referred to the relevant Portfolio Holder, or the Executive Board for response.

what happens following the meeting of the Call-In Panel

Following the meeting, the relevant decision-maker Portfolio Holder, Director and contact colleague will be informed of the outcome of the meeting.

If the Panel decides that the decision does not need to be reconsidered, then it can be implemented immediately.

If the Panel refers the decision back to the decision-maker then it will be reconsidered in light of comments made by the Panel. The decision-maker can decide whether to amend the original decision or not before adopting a final decision. This final decision cannot be subject to further call-in.

Additional recommendations made by the Panel will be treated in the same way as any other recommendations made by overview and scrutiny, and referred to the relevant Portfolio Holder or Executive Board. They will be asked to provide a response to say whether they agree to implement the recommendation(s) and how they intend to do so. Progress on implementation will then be reviewed at a later date. If they decline to implement a recommendation they will be asked to explain why.

contact information

For further information about call-in, or any other matters related to overview and scrutiny, contact Constitutional Services

Kim Pocock	0115 8764313	kim.pocock@nottinghamcity.gov.uk
Rav Kalsi	0115 8763759	rav.kalsi@nottinghamcity.gov.uk

This page is intentionally left blank

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:	2011
Author:	Bevis Robert Andrew Mackie
Department:	Development
Contact:	Bevis Robert Andrew Mackie (Job Title: Estates Surveyor, Email: bevis.mackie@nottinghamcity.gov.uk, Phone: 0115 876 3635)
Subject:	Wollaton Vale Service Station, NG8 2GR - Variation of User Clause
Total Value:	Exempt (Type: Revenue)
Decision Being Taken:	To vary the user covenant under the lease allowing for the development of a larger scale shop unit at Wollaton Vale Service Station, NG8 2GR. (1,745sq/yds or thereabouts). Presently the lease prohibits use of this property for anything other than as petrol filling station with greasing and washing bays and toilet accommodation and nineteen private lock-up garages.
Reasons for the Decision(s)	The Lessee has applied to the Council to carryout alterations at the property including the erection of larger shop unit to service the filling station, for which landlord's consent is required. Presently the user clause prohibits use of this property for anything other than as petrol filling station with greasing and washing bays and toilet accommodation and nineteen private lock-up garages. As this is deemed to comprise an intensification of the retail use beyond that originally intended under the lease, a premium payment is to be made by the lessee.
Other Options Considered:	To refuse granting consent to vary the user clause - This was rejected as the lessee is prepared to provide a premium payment for the right to vary the user clause.
Background Papers:	None
Published Works:	None

Affected Wards:	Wollaton West
Colleague / Councillor Interests:	None
Exempt Information:	
Description of what is exempt:	Financial information
	An appendix (or appendices) to this decision is exempt from publication under the following paragraph(s) of Schedule 12A of the Local Government Act 1972
3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).	The public interest in maintaining the exemption outweighs the public interest in disclosing the information because the value of the premium payment is commercially sensitive.
Documents exempt from publication:	2015.04.21.Exempt Appendix Accompanying Decision.doc
Consultations:	Date: 24/04/2015
	Ward Councillors: Georgina Culley, Eileen Morley, Steve Battlemuch
	All Councillors consulted. No comments have been provided.
	Those not consulted are not directly affected by the decision.
Crime and Disorder Implications:	N/a
Equality:	EIA not required. Reasons: Does not include new or changing Council policies
Decision Type:	Portfolio Holder
Subject to Call In:	Yes

Call In Expiry date:	04/06/2015
Advice Sought:	Legal, Finance
Legal Advice:	<p>The proposals contained within the report and exempt appendix raise no significant legal issues and, in the circumstances outlined, are supported.</p> <p>Advice provided by Malcolm Townroe (Legal Services Manager) on 21/05/2015.</p>
Finance Advice:	<p>The premium payment will be a revenue receipt to the Property Trading Account.</p> <p>Advice provided by Georgina Lewis (Finance Analyst) on 30/04/2015.</p>
Signatures	<p>Graham Chapman (PH for Resources and Neighbourhood Regeneration)</p> <p>SIGNED and Dated: 27/05/2015</p> <p>David Bishop (Deputy CE, CD for Development and Growth)</p> <p>SIGNED and Dated: 22/05/2015</p>

This page is intentionally left blank

Nottingham City Council
Executive Decision Call-In Request Form

This form should be submitted to the Head of Democratic Services, Legal and Democratic Services, Resources by midnight on the fifth working day after the decision publication date. The signed form should be submitted in original hard copy. If the form is being submitted after the office has closed on the fifth working day, it should be signed, scanned and emailed to *all* of the following individuals:

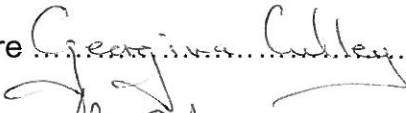


- Head of Democratic Services
 debra.lamola@nottinghamcity.gov.uk
- Senior Governance Officers
 kim.pocock@nottinghamcity.gov.uk
 rav.kalsi@nottinghamcity.gov.uk

The original hard copy of the form must then be provided to the Head of Democratic Services on the following morning.

For further information about the call-in procedure please see the Overview and Scrutiny Guide to Call-In and/ or contact the Senior Governance Officers on 0115 8764313 or 0115 8763759.

Date of decision publication:	28/5/15
Portfolio Holder Decision reference number:	2011
<u>or</u> Executive Board minute number:
<u>or</u> Executive Board Sub Committee minute number:
<u>or</u> Area Committee minute number:
<u>or</u> Officer Decision reference number:
Description of decision:	Variation of User Clause Wollaton Vale Service Station NGS 2GR

The following signatories request that the above decision be called in.

- Signature  Print name ..GEORGINA CULLEY
- Signature  Print name ..ANDREW RULE
- Signature  Print name ..Jim ARMSTRONG

Reason for requesting the decision be called in

The request for call-in must be based on one or more of the following reasons below.
[Tick the appropriate box or boxes and provide details for the reason, appending additional sheets if necessary]

<u>Reason for requesting call-in:</u> a) The decision is outside the budget/ policy framework	

<u>Reason for requesting call-in:</u> b) Inadequate consultation relating to the decision	

<u>Reason for requesting call-in:</u> c) Relevant information not considered	<input checked="" type="checkbox"/>
The variation of Use Clause will allow a much increased development of the site to include a larger retail unit to be open 24 hrs selling alcohol & food in the centre of a residential area, when there is adequate provision for the sale of alcohol & food within nearby retail outlets. The site of the petrol station & shop backs onto residential properties.	

<u>Reason for requesting call-in:</u> d) Viable alternatives not considered	

[Empty box]

Reason for requesting call-in: e) Justification for the decision open to challenge on the basis of evidence considered	✓
--	---

There is no justification for having a retail outlet opening 24hrs at this particular site. 24 hr opening is inappropriate at this site given its close proximity to residential properties. The original planning permission for this site was for use as a Petrol Station and allied services Not retail.

Suggestions for Call In Panel meeting

If the call in request is valid a meeting of the Call In Panel will be held. Please list below any evidence and/ or contributors that you think should be made available to the Call In Panel.
[Please note that these will be considered as suggestions only and the final decision on evidence and contributors will be made by the Chair of the Call In Panel.]

Suggested list of evidence to be provided/ contributors to attend the Call In Panel meeting

~~Dr.~~ Wollaton Vale Residents Association. Chairman.
Dr. A. Swannell.

For office use only:

Received on behalf of the Head of Democratic Services by: Kim Pockock
(signature)

Name: Kim Pockock Date: 04-06-2015 Time: 16:30

Validation Check:
Head of Democratic Services

Date of publication: 28/5/15 Date of call-in: 04/06/15 In time: YES / NO

Office checks that call-in is valid against requirements as set out in the Constitution:
YES / NO

Reason: The call-in request is in time, in writing, signed by the requisite councillors and identifies reasons for the call-in, all as required under the Call In Procedure. The call-in is also valid in that the decision is not one exempted from call-in under 14(a) of the Call-In Procedure Rules and is a relevant decision for Call-In as defined under 14(b) of those rules.

Completed by: Debra La Mola (signature)

DEBRA LA MOLA (name)

Date: 5/06/15 Time: 2.15pm

Validation Check: (if necessary)
Director of Legal and Democratic Services

Valid: YES / NO

Reason:

Completed by: (signature)

..... (name)

Date: Time:

Referrals:

Date copied to Corporate Director / Portfolio Holder

Name of Corporate Director

Name of Portfolio Holder

Date copied to Chair of Overview and Scrutiny Committee:

OVERVIEW AND SCRUTINY – CALL IN PANEL
22 JUNE 2015
CONSIDERATION OF CALL-IN REQUEST REGARDING DELEGATED DECISION 2011 – WOLLATON VALE SERVICE STATION, NG8 2GR, VARIATION OF USER CLAUSE
REPORT OF HEAD OF DEMOCRATIC SERVICES

1. Purpose

To consider the call-in request relating to Delegated Decision 2011 – Wollaton Vale Service Station, NG8 2GR, Variation of User Clause.

2. Action required

2.1 The Committee is asked to:

- a) **consider the information provided in relation to Delegated Decision 2011 and the reasons given for requesting a call-in of that decision and use that information to inform questioning and discussion;**
- b) **focusing on the reasons for the call-in as given in the call-in request form, and based on the evidence from the Portfolio Holder, his supporting colleague(s), and the councillors who requested the call-in, decide to either:**
 - i) **require that the decision is reconsidered, and make recommendation(s) as to what should be taken into consideration;**
or
 - ii) **agree that the decision does not need to be reconsidered and can be implemented.**

3. Background information

3.1 The Delegated Decision 2011 - Wollaton Vale Service Station, NG8 2GR, was published on 28 May 2015. Councillor Graham Chapman, as the decision-taker, supported by Kevin Shutter, Interim Director of Strategic Asset and Property Management and Bevis Mackie, Estates Surveyor, as relevant colleagues, have been invited to attend the meeting to outline details of, and reasons for the decisions and answer questions from the Panel regarding this. Angela Rawson, Licensing Manager and Rob Percival, Area Planning Manager will be on hand to clarify any licensing or planning specific issues that may arise during the course of discussion.

3.2 The call-in request form was signed by Councillors Jim Armstrong, Georgina Culley and Andrew Rule. These councillors have been invited to attend the meeting to outline the reasons for requesting the call-in and to answer questions from the Panel regarding this.

- 3.3 Focusing on the reasons for the call-in as given in the call-in request form, and based on the evidence from the Portfolio Holder, supporting colleagues, and the councillors who requested the call-in, the Panel needs to decide to either:
- a) require that the decisions are reconsidered, and make recommendation(s) as to what should be taken into consideration; or
 - b) agree that the decision does not need to be reconsidered and can be implemented.

In both cases, the Panel needs to provide reasons for its decision.

- 3.4 If the Panel agrees that the decision should be reconsidered it can:
- a) refer the decisions back to the Portfolio Holder for reconsideration; or
 - b) refer the decisions to full Council if it feels that the decision made is contrary to the Council's policy and/or budgetary framework.
- 3.5 In addition, the Panel can make other relevant recommendations which will be referred to the relevant Portfolio Holder, or the Executive Board for response.

4. List of attached information

None

5. Background papers, other than published works or those disclosing exempt or confidential information

None

6. Published documents referred to in compiling this report

Delegated Decision 2011 – Wollaton Vale Service Station, NG8 2GR – Variation of User Clause.

7. Wards affected

Wollaton West

8. Contact information

Rav Kalsi
Senior Governance Officer
rav.kasli@nottinghamcity.gov.uk
0115 87 63759

Document is Restricted

This page is intentionally left blank