



Nottingham City Council Overview and Scrutiny - Call in Panel

Date: Friday, 18 September 2020

Time: 4.30 pm

Place: Remote - To be held remotely via Zoom -
<https://www.youtube.com/user/NottCityCouncil>

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

Director for Legal and Governance

Governance Officer: Jane Garrard **Direct Dial:** 0115 876 4315

- 1 Apologies for absence**
- 2 Declarations of interests**
- 3 Confirmation of Validity of Call-in Relating to Delegated Decision 3967 - Declare that Exchange Buildings is Surplus to Operational Requirements** 3 - 18
Report of the Head of Legal and Governance
- 4 Consideration of Call-in Request Relating to Delegated Decision 3967 - Declare that Exchange Buildings is Surplus to Operational Requirements** 19 - 22
Report of the Head of Legal and Governance
- 5 Exclusion of the Public**
To consider excluding the public from the meeting during consideration of the remaining item(s) in accordance with 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.
- 6 Confirmation of Validity of Call-in Relating to Delegated Decision 3967 - Declare that Exchange Buildings is Surplus to Operational Requirements - Exempt Appendices** 23 - 32
- 7 Consideration of Call-in Request Relating to Delegated Decision**

3967 - Declare that Exchange Buildings is Surplus to Operational Requirements - Exempt 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

**Overview and Scrutiny Call-in Panel
18 September 2020**

**Confirmation of Validity of Call-in Relating to Delegated Decision 3967 –
Declaration that Exchange Buildings is Surplus to Operational
Requirements**

Report of the Head of Legal and Governance

1 Purpose

- 1.1 A call-in request relating to Delegated Decision 3967 - Declaration that Exchange Buildings is Surplus to Operational Requirements has been received. The purpose of this agenda item is to consider the validity of the call-in request.

2 Action required

- 2.1 The Panel is asked to confirm that the call-in request relating to Delegated Decision 3967 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 3967 was published on 26 August 2020 and the last date for call-in was 3 September 2020. A copy of the public part of delegated decision is attached as an appendix to this report.
- 3.3 The call-in request form was received by the Governance Services Team on 2 September 2020 having been signed by Councillors Kevin Clarke, Roger Steel and Maria Watson. A redacted copy of the call-in request form is attached to this report as some reasons relate to the exempt appendix.
- 3.4 On the basis of the information provided the Governance and Electoral Services Manager has confirmed the validity of the majority of the call-in request. The Governance and Electoral Services Manager commented that:

"The call-in request was received by the deadline, in writing, signed by the required number of councillors and identifies reasons for the call-in, as required by the call-in procedure. The decision was not exempted from call-in.

In terms of the reasons for call-in, I am satisfied that the request is valid in respect of reasons (b) Inadequate consultation relating to the decision, (c) Relevant information not considered, (d) Viable Alternatives Not Considered in respect of the reason "No detail on alternative options

considered, across different sectors, ie residential, retail and office." only, and (e) Justification for the decision open to challenge on the basis of evidence considered.

In respect of reason (a) The decision is outside of the budget/policy framework, this is considered an invalid reason for call-in because the decision falls within the budget and policy framework as outlined in the Constitution. In respect of part of reason (d) "No evidence that alternative methods of renovating the site whilst keeping it under Council control considered," this is considered invalid as alternatives are listed in the exempt appendix."

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

4 List of attached information

4.1 Overview and Scrutiny Guide to Call-In.

4.2 Delegated Decision 3967- Declaration that Exchange Buildings is Surplus to Operational Requirements.

4.3 Call-in request form.

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

5.1 None.

6 Published documents referred to in compiling this report

6.1 Nottingham City Council's Constitution.

6.2 Delegated Decision 3967 - Declaration that Exchange Buildings is Surplus to Operational Requirements.

7 Wards affected

7.1 All

8 Contact information

8.1 Jane Garrard
Senor Governance Officer
0115 8764315
jane.garrard@nottinghamcity.gov.uk

Laura Wilson
Senior Governance Officer
0115 8764301
laura.wilson@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

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 decisions made by an Area Committee
- Executive decisions made by the Health and Wellbeing Board Commissioning Sub Committee
- Executive decisions (£50,000 or more) made by an officer under authority delegated by the Leader, Executive Board, a committee of the Executive Board or the Health and Wellbeing Board Commissioning Sub Committee 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. Where there are three or fewer non-majority group councillors then two signatures are required to call-in a decision. Where there are four or more non-majority group councillors then three signatures are required to call-in a decision. In both cases, signatories can also sit on the Call-In Panel provided that their view on the matter is not pre-determined.

Copies of the Call-In Request Form are available from the Governance Services Team (contact details at the end of this Guide).

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 Governance and Electoral Services Manager is responsible for assessing the validity of call-in requests. If any doubt remains the 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 (or relevant decision maker) 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 decision maker (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 decision taker and the councillors who requested the call-in to respond to any questions raised by the Panel.

The Chair will invite the decision maker 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 decision maker (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 decision maker 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 Governance Services

Jane Garrard	0115 8764315	jane.garrard@nottinghamcity.gov.uk
Laura Wilson	0115 8764301	laura.wilson@nottinghamcity.gov.uk

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Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:	3967
Author:	Jason Tyler
Department:	Development and Growth
Contact:	Jason Tyler (Job Title: Strategic Assets & Property Business Partner, Email: jason.tyler@nottinghamcity.gov.uk, Phone: 01158763583)
Subject:	Declaration that Exchange Buildings is Surplus to Operational Requirements
Key Decision (decision valued at more than £1million):	Yes
Total Value:	See Exempt Appendix (Type: Capital)
Decision Being Taken:	1) To declare the Exchange Buildings surplus to operational requirements and make the premises available to the Director of Strategic Assets and Property to sell, subject to no alternative operational, regeneration or other requirements being identified. 2) To delegate authority to the Director of Strategic Assets and Property to agree the method and terms of sale.
Reasons for the Decision(s)	The Exchange Buildings is a Grade 2 listed building of 30,000 square feet in the centre of Nottingham. It has previously been used by the Council as office accommodation, but it has been vacant for the past five years as no other use has been found. The premises would require considerable refurbishment and upgrading prior to re-occupation, and remains costly to maintain despite being vacant, so it is proposed to sell the surplus building.
Other Options Considered:	1) To do nothing: this option is not viable because the ongoing costs of maintaining the building are a drain on Council resources. Failure to maintain the building would impact negatively on the neighbouring properties and may result in additional costs for repair or compensation due, for example, to water damage caused by leaks. Further options considered are detailed in the Exempt Appendix.
Background Papers:	None

Published Works:	None
Affected Wards:	Castle
Colleague / Councillor Interests:	None
Any Information Exempt from publication:	Yes
Exempt Information:	
Description of what is exempt:	The details of the property's market value.
	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 disclosure of the financial information contained in the exempt document could prejudice the Council's negotiating position in securing best value.
Documents exempt from publication:	Exchange Buildings - Briefing Note 2020 - For Information - Not for publication.pdf
Consultations:	Date: 27/07/2020
	Ward Councillors: Sam Webster, Angharad Roberts
	The Ward Councillors are in support of the proposals.
	Those not consulted are not directly affected by the decision.
Crime and Disorder Implications:	There are no crime and disorder implications arising from this decision.

Equality:	EIA not required. Reasons: An EIA is not required as the decision makes no changes to a service, policy or function.
Relates to Council Property Assets:	Yes
Relates to Building Services:	Yes
Decision Type:	Leader's Key Decision
Subject to Call In:	Yes
Call In Expiry date:	03/09/2020
Advice Sought:	Legal, Finance
Legal Advice:	<p>From the information provided in the report, and following discussion with the author of the report, it appears that the proposed transaction should not raise any substantive legal issues of concern. The transaction will be subject to normal property legal due diligence work and the drafting, agreement and completion of formal legal documentation between the parties.</p> <p>Advice provided by Mick Suggett (Team leader - Conveyancing) on 03/07/2020.</p>
Finance Advice:	<p>At the Executive Board meeting in September 2009, Exchange Buildings was identified as one of the sites the Council was going to dispose as part of the Loxley House business case. The Council has been required to prudentially borrow in lieu of realising the Exchange Buildings capital receipt, which has generated an annual revenue pressure of around £80,000 per year, this revenue pressure generated due to the time difference between funding Loxley House and realising the receipt is in addition to the annual holding costs of around £90,000 per year.</p> <p>Any capital receipt realised from Exchange Buildings will be initially used to repay debt incurred as part of Exchange Buildings refurbishment of around £241,000, and any net balance after repaying the Exchange Buildings debt is to offset debt incurred within the Loxley House business case.</p> <p>Advice provided by Tom Straw (Senior Accountant - Capital Programmes) on 27/07/2020.</p>
Property Advice:	<p>This is a Property report, so no further Property Advice is required.</p> <p>Advice provided by Rodney Alan Martin (Development Manager) on 30/07/2020.</p>

Building Services Advice:

Building Services fully supports this project.
Advice provided by Trevor Bone (Property Maintenance Manager) on 14/07/2020.

Signatures:

David Mellen (Leader/ PH Regeneration, Schools, Communications)
SIGNED and Dated: 26/08/2020
Chris Henning (Corporate Director for Development and Growth)
SIGNED and Dated: 26/08/2020

Nottingham City Council

Executive Decision Call-In Request Form

This form should be submitted to the Governance and Electoral Services Manager, Governance Services, Legal and Governance, 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:

Senior Governance Officers

jane.garrard@nottinghamcity.gov.uk

laura.wilson@nottinghamcity.gov.uk

The original hard copy of the form must then be provided to the Governance and Electoral Services Manager 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 8764315 or 0115 8764301.

Date of decision publication: 26 August 2020

Portfolio Holder Decision reference number: 3967

or Executive Board minute number:

or Executive Board Sub Committee minute number:

or Area Committee minute number:

or Officer Decision reference number:

Description of decision: **Declaration that Exchange Buildings is Surplus to Operational Requirements**

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

1. Signature: 

Print name: Roger Steel

2. Signature: 

Print name: Kevin Clarke

3. Signature



Print name: Maria Watson

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	
Redacted	

<u>Reason for requesting call-in:</u> b) Inadequate consultation relating to the decision	
There has been no consultation with the public on the future of the Exchange Buildings.	

<u>Reason for requesting call-in:</u> c) Relevant information not considered	
Redacted	
There is no detail on how the annual maintenance cost is comprised to see if savings are possible.	
Redacted	
No breakdown has been provided evidencing how the refurbishment costs have been calculated.	
Details of any approaches made to purchase the property from third parties not considered.	
Details of disposal mechanisms not considered, ie sale on open market, auction or private treaty	

Reason for requesting call-in: d) Viable alternatives not considered	
<p>No detail on alternative options considered, across different sectors, ie residential, retail and office.</p> <p>No evidence that alternative methods of renovating the site whilst keeping it under Council control considered.</p>	

Reason for requesting call-in: e) Justification for the decision open to challenge on the basis of evidence considered	
<p>There is no detail on how the annual maintenance cost is comprised to see if savings are possible.</p> <p>Redacted</p> <p>No breakdown has been provided evidencing how the refurbishment costs have been calculated.</p> <p>Details of any approaches made to purchase the property from third parties not considered.</p> <p>Details of disposal mechanisms not considered, ie sale on open market, auction or private treaty.</p>	

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.]

<p><u>Suggested list of evidence to be provided/ contributors to attend the Call In Panel meeting</u></p> <p>Nottingham Civic Society</p> <p>Nottingham City Business Club</p>
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For office use only:

Received on behalf of the Governance and Electoral Services Manager by:
(signature)

Name:

Date:

Time:

Validation Check:

Governance and Electoral Services Manager

Date of publication: 26/08/2020 Date of call-in: 02/09/2020 In time: YES

Office checks that call-in is valid against requirements as set out in the
Constitution: YES

Reason: See Below



Completed by: (signature)

Nancy Barnard, Governance and Electoral Services Manager

Date: 04/09/2020

Time: 11:27am

Validation Check: (if necessary)

Monitoring Officer

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:

Governance and Electoral Services Manager Validation Check

Reasons for Call-in

The call-in request was received by the deadline, in writing, signed by the required number of councillors and identifies reasons for the call-in, as required by the call-in procedure. The decision was not exempted from call-in.

In terms of the reasons for call-in, I am satisfied that the request is valid in respect of reasons b) Inadequate consultation relating to the decision, c) Relevant information not considered, d) Viable Alternatives Not Considered in respect of the reason "No detail on alternative options considered, across different sectors, ie residential, retail and office." only, and e) Justification for the decision open to challenge on the basis of evidence considered.

In respect of reason a) The decision is outside of the budget/ policy framework, this is considered an invalid reason for call-in because the decision falls within the budget and policy framework as outlined in the Constitution. In respect of part of reason d) "No evidence that alternative methods of renovating the site whilst keeping it under Council control considered," this is considered invalid as alternatives are listed in the exempt appendix.

Nancy Barnard, Governance and Electoral Services Manager
04/09/2020

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**Overview and Scrutiny Call-In Panel
18 September 2020**

**Consideration of Call-In Request Relating to Delegated Decision 3976 –
Declare that Exchange Buildings is Surplus to Operational
Requirements**

Report of the Head of Legal and Governance

1 Purpose

- 1.1 To consider the call-in request relating to Delegated Decision 3967 – Declare that Exchange Buildings is Surplus to Operational Requirements.

2 Action required

- 2.1 Consider the information provided in relation to the Delegated Decision 3967 – Declare that Exchange Buildings is Surplus to Operational Requirements, and the reasons given for requesting a call-in of that decision, and use it to inform questioning and discussion.
- 2.2 Focussing on the reasons for the call-in, as given in the call-in request form, and based on the evidence available to the Panel, decide:
 - (a) to require that the decision is reconsidered, and make recommendation(s) as to what should be taken into consideration; or
 - (b) that the decision does not need to be reconsidered and can be implemented.

3 Background information

- 3.1 Delegated Decision 3967 – Declare that Exchange Buildings is Surplus to Operational Requirements was taken by David Mellen, and published on 26 August 2020. A copy of the decision is attached to agenda item 'Confirmation of Validity of Call-in Request'. Councillor Mellen has been invited to attend the meeting to outline the details of, and reasons for the decision and answer questions from the Panel.
- 3.2 The call-in request form was signed by Councillors Kevin Clarke, Roger Steel and Maria Watson, and a representative of those councillors has been invited to attend the meeting to outline their concerns and the reasons for these. A copy of the call-in request form is attached to agenda item 'Confirmation of Validity of Call-in Request'.
- 3.3 Based on the points raised in the call-in request form, additional information regarding the decision has been requested and will be made available to the Panel.

- 3.4 Focussing on the reasons for the call-in, as given in the call-in request form, and based on the evidence available to the Panel, decide:
- (a) to require that the decision is reconsidered, and make recommendation(s) as to what should be taken into consideration; or
 - (b) 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.

- 3.5 If the Panel decides that the decision should be reconsidered it can:
- (a) refer the decision back to the Portfolio Holder for reconsideration; or
 - (b) refer the decision to full Council if it feels that the decision made is contrary to the Council's policy and/or budgetary framework.
- 3.6 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

- 4.1 None. Any additional information submitted will be forwarded to the Panel for consideration.

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

- 5.1 None.

6 Published documents referred to in compiling this report

- 6.1 Delegated Decision 3967 – Declare that Exchange Buildings is Surplus to Operational Requirements.

7 Wards affected

- 7.1 All.

8 Contact information

- 8.1 Jane Garrard
Senior Governance Officer
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Senior Governance Officer

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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