

Meeting:	General scrutiny committee
Meeting date:	Friday 29 March 2019
Title of report:	Call-in of cabinet member decision on Hereford Transport Package
Report by:	Statutory Scrutiny Officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To consider the call-in of the decision of the cabinet member infrastructure on Hereford Transport Package.

The cabinet member's decision has been called in by the following seven councillors: Councillors EPJ Harvey, JM Bartlett, EE Chowns, FM Norman, AJW Powers, A Seldon, and A Warmington

Recommendation(s)

That the committee determines either:

- a) not to refer the decision back to the cabinet member to reconsider; or**
- b) to refer the decision back to the cabinet member to reconsider, and in doing so specifies the concerns that the cabinet member is asked to take into account.**

Alternative options

- a) There are no alternatives to the recommendations which reflect the options open to the committee.

Key considerations

1. In accordance with the scrutiny rules set out in the council's constitution, the decision by the cabinet member – infrastructure on 11 March 2019: Hereford Transport Package (at appendix 1), has been called-in for consideration by this committee.
2. The stated reasons for the call-in are given in appendix 2 and are reproduced below:

Ground	Evidence
<p>(b) that there was inadequate evidence on which to base a decision and that not all relevant matters were fully taken into account;</p>	<ul style="list-style-type: none"> • According to the latest A&G committee agenda papers, insufficient assurance has been provided by SWAP that the project management and governance requirements of this council are being followed on this project and other major capital projects. • The feasibility business case states clearly that: "This Feasibility Business Case is to be submitted to the Capital Strategy Board and if accepted, a more detailed outline Business Case will be developed." The feasibility business case goes on: "If the business case is approved then the project can continue in 2019/2020 and project development can continue to current programme." We do not believe that the outline business case has been approved. • Our finance regulations state that: "4.7.115 Following approval of the capital programme and agreement of the capital budget, each project will be subject to the relevant governance process before being implemented." This budget has not been agreed as a detailed business case and the project is not fully complying with the project management requirements agreed following the Blueschool House investigation.

<p>(d) that the decision is disproportionate to the desired outcome;</p>	<ul style="list-style-type: none"> • There is no appropriately detailed plan approved for how this money is to be spent. The feasibility business case only states that £3.5m will be spent in 2019-20. This is disproportionate to the spending requirement to keep the project ticking over during purdah. • Allowing the entire £3.5m to be dealt with under officer delegation is disproportionate to whatever costs need to be incurred on this project until 3 May 2019. Any new contracts which may need to be commissioned are politically controversial and should be deferred until after the election. This project is politically controversial and would be subject to change if there is a change in administration. It is not appropriate to give officers authority to commit up to the entire budget during the purdah period.
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3. Having heard the evidence for calling in the decision, and any response from the cabinet member, the committee may decide that it is satisfied or, if concerns remain, the committee may choose to recommend that the cabinet member reconsider the decision in light of specific comments the committee makes.
4. If the committee is satisfied, the original decision may be implemented immediately.
5. If the committee makes a recommendation to the cabinet member, they shall reconsider any decision referred to them following call-in, take into account any views expressed by the relevant scrutiny committee and may either amend or confirm the original decision or require further specified work to be undertaken before making a final determination.

Community impact

6. In accordance with the council's adopted code of corporate governance, the council is committed to promoting a positive working culture that accepts, and encourages constructive challenge, and recognises that a culture and structure for scrutiny are key elements for accountable decision making, policy development and review.

Equality duty

7. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
8. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As any recommendation of the scrutiny committee must be referred to the cabinet member to consider, we do not believe that it will have an impact on our equality duty.

Resource implications

9. There are no resource implications arising from the recommendations. If the scrutiny committee makes any recommendations to the cabinet member the resource implications of those recommendations will be taken into consideration by the cabinet member.

Legal implications

10. The call-in was determined as valid by the monitoring officer (as detailed in appendix 2) and the meeting has been convened in the specified 10 day period, in accordance with the council's constitutional provisions.

Risk management

11. There are no risks identified with the recommendations. If the scrutiny committee makes any recommendations to the cabinet member the risk management implications of those recommendations will be taken into consideration (alongside those already stated in the original decision report) by the cabinet member.

Consultees

12. None

Appendices

Appendix 1: Written statement of a key decision, associated report and appendices.

Appendix 2: Hereford Transport Package – decision report

Appendix 3: Hereford Transport Package – Feasibility Business Case

Appendix 4: Determination of validity of call-in for submission to the Monitoring Officer

Background papers

None identified