

HAMPSHIRE COUNTY COUNCIL

Report

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| Committee: | Economy Transport and Environment (Overview and Scrutiny) Committee |
| Date: | 31 March 2022 |
| Title: | Bikeability Cycle Training Consideration of Request to Exercise Call-in Powers |
| Report From: | Head of Law and Governance and Monitoring Officer |

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Purpose of this Report

1. The purpose of this report is to which this report relates is for the Economy Transport and Environment (Overview and Scrutiny) Committee ('ETE Select Committee') to consider whether or not it should exercise its powers under Section 9F of Part 1A of the Local Government Act 2000 ('the 2000 Act'), referred to in the County Council's Constitution as 'Call-in'

Recommendation(s)

That Members of the ETE Select Committee determine whether:

2. They recommend that the Executive Lead Member for Economy Transport and Environment should re-consider his decisions as set out in the Decision Record attached at Appendix 1, OR
3. They consider that they should not recommend that the Executive Lead Member for Economy Transport and Environment re-considers his decisions as set out in the Decision Record attached at Appendix 1.

Contextual information

- 4 In September 2019, the then Executive Member for Environment and Transport gave approval to procure and spend and enter into the necessary

contractual arrangements to deliver Bikeability cycle training for a period of 2 years, extendable to a maximum of 4 years, from 1 August 2020.

- 5 At his meeting on 10 March 2022, the Executive Lead Member for Economy Transport and Environment considered the Bikeability Cycle Training Report attached at Appendix 2 (“Decision Day Report”) and approved the recommendations contained at paragraph 2 and 3 of the Report, enabling the training offer to be provided by Children’s Services. The decision record of the Executive Member dated 10 March 2022 is attached at Appendix 1.
- 6 The Report was not pre scrutinised by the ETE Select Committee.
- 7 Following the decision of the Executive Lead Member for Economy Transport and Environment on 10 March 2022, a call-in request was made by a quorum of members of the ETE Select Committee for a meeting of the Committee to be held in order for it to consider whether or not it should exercise its call-in powers.
- 8 Provision of Bikeability cycle training is contained within the Local Transport Plan 3 Policy Objective 12 and links to road safety and casualty reduction. The Local Transport Plan 3 forms part of the County Council’s Policy Framework.

Legal and Constitutional Position

- 9 Legal provisions in respect of Call-in are set out at Section 9F of Part 1A of the 2000 Act and reflected at Part 3, Chapter 3, Paragraph 1.17 of the County Council’s Constitution. A copy of Part 3, Chapter 3, Paragraph 1.17 of the Constitution is attached at Appendix 3 for ease of reference. It should be noted however that discussion of the Executive decision subject of the Call-in request is not limited to the points raised in the request (should any have been given).
- 10 When a Scrutiny Committee meets in order to consider whether or not it should exercise its Call-in powers in respect of an Executive Decision, a Select Committee is required to consider whether or not to recommend:
 - a) that the decision be reconsidered by the relevant decision maker; or
 - b) that its function in respect of review or scrutiny of the decision should be exercised by the County Council.
- 11 It should however be noted that the recommendation as referred to at 10 b) above is not available where the Executive decision in question is in line with the Budget or Policy Framework. Neither does the exercise of Call-in powers prevent implementation of a decision within the Budget and Policy Framework. As indicated at Section 8 of this Report, the decision of the Executive Lead Member for Economy Transport and Environment relates to proposals regarding the provision of Bikeability cycle training which forms part

of the Council's Policy Framework. For these reasons, it is the view of the Head of Law and Governance and Monitoring Officer that the decision made by the Executive Lead Member for Economy Transport and Environment is in line with the Budget or Policy Framework. Therefore, should the ETE Select Committee determine it appropriate to exercise its Call-in powers, the recommendation open to the Committee is as set out in Paragraph 2 above.

Scrutiny

- 12 The role of a Scrutiny Committee includes both developing and reviewing policy and holding the Executive to account. A Scrutiny Committee may not however discharge any functions other than those conferred on it, and whilst it is perfectly proper for a Scrutiny Committee to offer advice and recommendations to an Executive decision maker, in law, responsibility for an Executive decision is that of the Executive. Similarly, in law, functions of the Executive cannot be discharged or overturned by the Full Council
- 13 When operated effectively, call-in provisions should ensure that there is an appropriate balance between effectively holding the Executive to account, being able to question decisions before they are recommended, and allowing effective and efficient decision making by the Executive within the policy framework and budget agreed by the full Council.

Call-In

- 14 So far as reconsideration of the recommendations in the Report contained at Paragraphs 1.1 and 1.2 of the decision record, it is open to the ETE Select Committee to ask the Executive Lead Member for Economy Transport and Environment to reconsider his decision.
- 15 It is not however possible under the provisions relating to call-in for the ETE Select Committee to do anything other than ask the Executive Lead Member for Economy Transport and Environment to reconsider the specific decision he made.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

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| Hampshire maintains strong and sustainable economic growth and prosperity: | yes |
| People in Hampshire live safe, healthy and independent lives: | yes |
| People in Hampshire enjoy a rich and diverse environment: | yes |
| People in Hampshire enjoy being part of strong, inclusive communities: | yes |

Other Significant Links

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| Links to previous Member decisions: | |
| <u>Title</u> Contract for Provision of Bikeability Training 2020-2022-2019-09-17-EMETE Decision Day (hants.gov.uk) | <u>Date</u> 17 September 2019 |
| Direct links to specific legislation or Government Directives | |
| <u>Title</u> Local Government Act | <u>Date</u> 2000 |

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

| <u>Document</u> | <u>Location</u> |
|-----------------|-----------------|
| None | |

EQUALITIES IMPACT ASSESSMENT:

1. Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

2. Equalities Impact Assessment:

An EIA was not applicable as the report is governance in nature and relates to decisions that have a separate assessment undertaken.

Climate Change Impact Assessment

The carbon mitigation tool and/or climate change adaptation tool were not applicable because the decision relates to a separate project, which is subject to assessment individually.