

# Special Overview and Scrutiny Management Committee

Tuesday, 9th November, 2021  
at 5.00 pm

## PLEASE NOTE TIME OF MEETING

Council Chamber, Civic Centre,  
Southampton

This meeting is open to the public

### Members

Councillor Fielker (Chair)  
Councillor Savage (Vice-Chair)  
Councillor Chaloner  
Councillor Cooper  
Councillor Fuller  
Councillor Guthrie  
Councillor Kaur  
Councillor Stead  
Councillor Vaughan

### Appointed Members

Nicola Brown, Primary Parent Governor  
Catherine Hobbs, Roman Catholic Church  
Francis Otieno, Primary Parent Governor  
Claire Rogers, Secondary Parent Governor  
Rob Sanders, Church of England

### Contacts

Judy Cordell  
Senior Democratic Support Officer  
Tel. 023 8083 2766  
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Mark Pirnie  
Scrutiny Manager  
Tel: 023 8083 3886  
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## PUBLIC INFORMATION

### Overview and Scrutiny Management Committee

The Overview and Scrutiny Management Committee holds the Executive to account, exercises the call-in process, and sets and monitors standards for scrutiny. It formulates a programme of scrutiny inquiries and appoints Scrutiny Panels to undertake them. Members of the Executive cannot serve on this Committee.

#### **Role of Overview and Scrutiny**

Overview and Scrutiny includes the following three functions:

- Holding the Executive to account by questioning and evaluating the Executive's actions, both before and after decisions taken.
- Developing and reviewing Council policies, including the Policy Framework and Budget Strategy.
- Making reports and recommendations on any aspect of Council business and other matters that affect the City and its citizens.

Overview and Scrutiny can ask the Executive to reconsider a decision, but they do not have the power to change the decision themselves.

**Use of Social Media:-** The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting. By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public. Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so. Details of the Council's Guidance on the recording of meetings is available on the Council's website.

#### **Southampton: Corporate Plan 2020-2025 sets out the four key outcomes:**

- Communities, culture & homes - Celebrating the diversity of cultures within Southampton; enhancing our cultural and historical offer and using these to help transform our communities.
- Green City - Providing a sustainable, clean, healthy and safe environment for everyone. Nurturing green spaces and embracing our waterfront.
- Place shaping - Delivering a city for future generations. Using data, insight and vision to meet the current and future needs of the city.
- Wellbeing - Start well, live well, age well, die well; working with other partners and other services to make sure that customers get the right help at the right time

#### **Procedure / Public Representations**

At the discretion of the Chair, members of the public may address the meeting on any report included on the agenda in which they have a relevant interest. Any member of the public wishing to address the meeting should advise the Democratic Support Officer (DSO) whose contact details are on the front sheet of the agenda.

**Smoking Policy:-** The Council operates a no-smoking policy in all civic buildings.

**Mobile Telephones:-** Please switch your mobile telephones to silent whilst in the meeting

#### **Fire Procedure:-**

In the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

**Access is available for disabled people.** Please contact the Democratic Support Officer who will help to make any necessary arrangements.

#### **Dates of Meetings: Municipal Year 2019/20**

2021	2022
10 June	13 January
15 July	3 February
12 August	10 March
9 September	14 April
14 October	
11 November	
16 December	

## **CONDUCT OF MEETING**

### **TERMS OF REFERENCE**

The general role and terms of reference for the Overview and Scrutiny Management Committee, together with those for all Scrutiny Panels, are set out in Part 2 (Article 6) of the Council's Constitution, and their particular roles are set out in Part 4 (Overview and Scrutiny Procedure Rules – paragraph 5) of the Constitution.

### **RULES OF PROCEDURE**

The meeting is governed by the Council Procedure Rules and the Overview and Scrutiny Procedure Rules as set out in Part 4 of the Constitution.

### **BUSINESS TO BE DISCUSSED**

Only those items listed on the attached agenda may be considered at this meeting.

### **QUORUM**

The minimum number of appointed Members required to be in attendance to hold the meeting is 4.

## **DISCLOSURE OF INTERESTS**

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

### **DISCLOSABLE PECUNIARY INTERESTS**

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

- (iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

- (iv) Any beneficial interest in land which is within the area of Southampton.

- (v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

- (vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

- (vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

- a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
- b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

## **Other Interests**

A Member must regard himself or herself as having an, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

## **Principles of Decision Making**

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

## **AGENDA**

### **1 APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)**

To note any changes in membership of the Panel made in accordance with Council Procedure Rule 4.3.

### **2 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS**

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

### **3 DECLARATIONS OF SCRUTINY INTEREST**

Members are invited to declare any prior participation in any decision taken by a Committee, Sub-Committee, or Panel of the Council on the agenda and being scrutinised at this meeting.

### **4 DECLARATION OF PARTY POLITICAL WHIP**

Members are invited to declare the application of any party political whip on any matter on the agenda and being scrutinised at this meeting.

### **5 STATEMENT FROM THE CHAIR**

### **6 EXCLUSION OF THE PRESS AND PUBLIC - CONFIDENTIAL PAPERS INCLUDED IN THE FOLLOWING ITEM**

To move that in accordance with the Council's Constitution, specifically the Access to Information Procedure Rules contained within the Constitution, the press and public be excluded from the meeting in respect of any consideration of the confidential appendices 2 – 5 to the following Item

Confidential appendices 2 – 5 contain information deemed to be exempt from general publication based on Categories 3 and 7A of paragraph 10.4 of the Council's Access to Information Procedure Rules. It is not considered to be in the public interest to disclose the information because doing so would put the Council or other parties at a commercial disadvantage and prejudice the Council's negotiating position and its ability to achieve best consideration.

### **7 CALL-IN OF EXECUTIVE DECISION CAB 21/22 32527** (Pages 1 - 20)

Report of the Director - Legal and Business Operations, detailing the Call-In of Executive Decision CAB 21/22 32527 – Northern Above Bar Properties.

Monday, 1 November 2021

Service Director – Legal and Business Operations

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# Agenda Item 7

<b>DECISION-MAKER:</b>	OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE
<b>SUBJECT:</b>	CALL-IN OF EXECUTIVE DECISION CAB 21/22 32527: NORTHERN ABOVE BAR PROPERTIES
<b>DATE OF DECISION:</b>	9 NOVEMBER 2021
<b>REPORT OF:</b>	SERVICE DIRECTOR – LEGAL AND BUSINESS OPERATIONS

<b><u>CONTACT DETAILS</u></b>			
<b>Executive Director</b>	<b>Title</b>	<b>Deputy Chief Executive</b>	
	<b>Name:</b>	<b>Mike Harris</b>	<b>Tel: 023 8083 2882</b>
	<b>E-mail</b>	<b>Mike.harris@southampton.gov.uk</b>	
<b>Author:</b>	<b>Title</b>	<b>Scrutiny Manager</b>	
	<b>Name:</b>	<b>Mark Pirnie</b>	<b>Tel: 023 8083 3886</b>
	<b>E-mail</b>	<b>Mark.pirnie@southampton.gov.uk</b>	

<b>STATEMENT OF CONFIDENTIALITY</b>	
<p>Appendices 2-5 are not for publication by virtue of Categories 3 and 7(A) of paragraph 10.4 of the Council's Access to Information Procedure Rules. It is not considered to be in the public interest to disclose the information because doing so would put the Council or other parties at a commercial disadvantage and prejudice the Council's negotiating position and its ability to achieve best consideration.</p>	
<b>BRIEF SUMMARY</b>	
<p>A Call-In notice has been received from the Chair of the Overview and Scrutiny Management Committee (OSMC) in respect of the following decision made by Cabinet on 18 October 2021:</p> <ul style="list-style-type: none"><li>Northern Above Bar Properties</li></ul>	
<b>RECOMMENDATIONS:</b>	
<p>Following consideration of the attached Cabinet report, related appendices and Decision Notice, the Committee is recommended either:-</p>	
(i)	To recommend that the Decision Maker re-consider the called-in decision at the next decision meeting; or
(ii)	To advise the Decision Maker that the Scrutiny Committee does not recommend that the decision be reconsidered and that it can therefore be implemented without delay.
<b>REASONS FOR REPORT RECOMMENDATIONS</b>	
1.	The recommendations reflect the options available to the Overview and Scrutiny Management Committee through the implementation of the agreed Call-In process.

<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>	
2.	Not applicable.
<b>DETAIL (Including consultation carried out)</b>	
3.	A Call-In notice signed by the Chair of the OSMC has been received in accordance with Paragraph 12 of the Overview and Scrutiny Procedure Rules set out in Part 4 of the Council's Constitution. The Call-In notice relates to the following decision made by the Cabinet on 18 October 2021: <ul style="list-style-type: none"> <li>Northern Above Bar Properties</li> </ul>
4.	Paragraph 12 of the Overview and Scrutiny Procedure Rules provides a mechanism for members of the OSMC to challenge executive decisions that have been made but not implemented. The documents attached to this report relate to the decision that has been called in under this procedure and include: <ul style="list-style-type: none"> <li>The Call-In Notice: Detailing who called-in the decision and why</li> <li>The Decision Notice: Detailing the decision taken and the reasons for the decision</li> <li>The Decision Report: The report on which the decision was based.</li> </ul>
5.	It is for the OSMC to discuss the subject of the Call-In with the decision maker to determine whether it wishes the decision maker to re-consider the previous decision, or to clear the proposals for implementation without further re-consideration.
<b>RESOURCE IMPLICATIONS</b>	
<b><u>Capital/Revenue</u></b>	
6.	The relevant details are set out in Appendix 3.
<b><u>Property/Other</u></b>	
7.	The relevant details are set out in Appendix 3.
<b>LEGAL IMPLICATIONS</b>	
<b><u>Statutory power to undertake proposals in the report:</u></b>	
8.	The relevant details are set out in Appendix 3.
9.	The duty to undertake overview and scrutiny is set out in Part 1A Section 9 of the Local Government Act 2000.
<b><u>Other Legal Implications:</u></b>	
10.	The relevant details are set out in Appendix 3.
<b>RISK MANAGEMENT IMPLICATIONS</b>	
11.	The relevant details are set out in Appendix 3.
<b>POLICY FRAMEWORK IMPLICATIONS</b>	
12.	The relevant details are set out in Appendix 3.
<b>KEY DECISION?</b>	No
<b>WARDS/COMMUNITIES AFFECTED:</b>	None directly as a result of this report



SUPPORTING DOCUMENTATION

**Appendices**

1.	Call In Notice
2.	Confidential Decision Notice – Northern Above Bar Properties
3.	Decision Report – Northern Above Bar Properties
4.	Confidential Appendix 1 to Decision Report
5.	Confidential Appendix 2 to Decision Report

**Documents In Members’ Rooms**

1.	None
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**Equality Impact Assessment**

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out?	Identified in Appendix 3
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**Data Protection Impact Assessment**

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out?	Identified in Appendix 3
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**Other Background Documents**

**Other Background documents available for inspection at:**

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	None

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## NOTICE OF CALL-IN


In accordance with rule 12 of the Overview & Scrutiny procedure rules of the Council's Constitution, a request is hereby made that the Scrutiny Manager exercise the call-in of the decision identified below for consideration by Overview and Scrutiny Management Committee.

Decision Number: CAB 21/22 32527– Northern Above Bar Properties
Decision Taker: Cabinet
Date of Decision: 18/10/21

Reason(s) for Requisition of Call-In of Decision:

- Cabinet have taken a decision without the availability of the information required to make an informed assessment of the options available.

Call-In Requested by:

Name	Signature	Date
Cllr Fielker – OSMC Chair		26/10/21

All Members requesting that a Decision be Called-In must sign this Call-In Notice. A decision may be called in by:

- The Chair of Overview and Scrutiny Management Committee
- Any 2 Members of Overview and Scrutiny Management Committee
- In respect of a Decision relating to Education, any 2 Parent Governor or Church Representatives

Please submit to the Scrutiny Manager within 5 clear days of the publication of the relevant decision.

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