

Report to:	Overview and Scrutiny Committee (Regeneration and Skills)	Date of Meeting:	8 March 2022
Subject:	Item Called In - Knob Hall Lane, Southport		
Report of:	Chief Legal and Democratic Officer	Wards Affected:	Cambridge
Portfolio:	Cabinet Member – Locality Services		
Is this a Key Decision:	No	Included in Forward Plan:	No
Exempt / Confidential Report:	No		

Summary:

- (1) To advise the Overview and Scrutiny Committee of the relevant aspects of the Constitution and the reasons for the call-in of the decision of the Cabinet Member Locality Services regarding the above item, as set out in paragraph 2.3 to this report.
- (2) To seek the views of the Overview and Scrutiny Committee.
- (3) In the event of the Committee being concerned about the decision, the Overview and Scrutiny Committee must decide which of the following courses of action is to be taken in relation to this matter:-
 - a) referral of the matter to the Cabinet Member – Locality Services for re-consideration, setting out the nature of the Overview and Scrutiny Committee’s concerns; or
 - b) referral of the matter to Council for the Council to decide whether it wishes to object to the decision (subject to the guidance set out in paragraph 2.5).
- (4) In the event of the Committee being satisfied with the decision, the decision can proceed for implementation immediately following the meeting.

Recommendation(s):

- (1) That the Committee considers the reasons set out in the extract of the Constitution (see paragraph 2.3) and the requisition for call-in (see paragraph 2.2) and determines its jurisdiction accordingly;
- (2) That the Committee determines whether it is concerned about the decision made by the Cabinet Member – Locality Services; and
- (3) If the Committee is concerned about the decision, that the Committee indicates which of the two options set out in paragraph (3) of the summary set out above, it

wishes to pursue.

Reasons for the Recommendations:

The decision of the Cabinet Member – Locality Services has been called in. The Overview and Scrutiny Committee is required to consider the concerns raised by Councillors.

Alternative Options Considered and Rejected: (including any Risk Implications)

Not applicable. The Council’s Constitution requires the Overview and Scrutiny Committee to consider called in items.

What will it cost and how will it be financed?

(A) Revenue Costs

There are no direct revenue costs associated with this report detailing the call-in of the item. The original report to Cabinet Member – Locality Services indicated that:

“There are no further revenue costs associated with this report”.

(B) Capital Costs

There are no direct capital costs associated with this report detailing the call-in of the item. The original report to Cabinet Member – Locality Services indicated that:

“There are no further revenue costs associated with this report”.

Implications of the Proposals:

The Implications of the Proposals are set out within the attached Cabinet Member report, as follows:

Resource Implications (Financial, IT, Staffing and Assets): There are no resource implications associated with this report.	
Legal Implications: The Chief Legal and Democratic Officer has been consulted and any comments have been incorporated into the report	
Equality Implications: There are no equality implications.	
Climate Emergency Implications: The recommendations within this report will:	
Have a positive impact	N
Have a neutral impact	Y
Have a negative impact	N
The Author has undertaken the Climate Emergency training for report authors	Y
The original report to the Cabinet Member indicated that “The recommended position	

will result in no changes to the level of Council activity and have no impact on the Council's Carbon Footprint".

Contribution to the Council's Core Purpose:

The original report to Cabinet Member indicated the following contributions to the Council's core purpose:

Protect the most vulnerable: Not applicable
Facilitate confident and resilient communities: Not applicable
Commission, broker and provide core services: As the local Highways Authority, maintenance of highways falling within the authority's responsibility is a core function of the Council. It is therefore important to have a clear understanding of the extent of the authority's responsibilities.
Place – leadership and influencer: leadership and influencer: As the local Highways Authority, it important that the Council maintains the highways it is responsible for in line with legal requirements and to the best of its abilities within the resources available to it.
Drivers of change and reform: Not applicable
Facilitate sustainable economic prosperity: Effective maintenance of the adopted highway network is an important function for facilitating economic prosperity.
Greater income for social investment: Not applicable
Cleaner Greener: Not applicable

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services has been consulted and has no comments on this report. (FD6698/22)

The Chief Legal and Democratic Officer is the author of this report. (LD4898/22)

(B) External Consultations

Not applicable

Implementation Date for the Decision

To be determined by the decision of the Overview and Scrutiny Committee.

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Appendices:

The following appendix is attached to this report:-

- Report to Cabinet Member – Locality Services dated 1 December 2021 Appendix 1
- Call-in procedure to be adopted at the meeting – Appendix 2

Background Papers:

All relevant papers in relation to the Cabinet decision are attached to the report.

1. Introduction/Background

1.1 Cabinet Decision

1.2 The report attached as **Appendix 1** to this report was considered by the Cabinet Member – Locality Services on 1 December 2021.

1.3 The decision of the Cabinet Member – Locality Services is set out below:

Decision Made: That

- (1) the position as set out in paragraph 7 of the report be approved; and
- (2) the Head of Highways and Public Protection be requested to write to Cambridge Ward Councillors and residents, affirming the Council's position on this matter.

Reason for Decision:

The issue of maintenance responsibility for Knob Hall Lane has been the source of dispute for many years. In November 2019, Cambridge Ward Councillors, on behalf of the residents of Knob Hall Lane, collectively raised the issue with the Head of Highways and Public Protection. Investigations were therefore commenced which involved a thorough search of the Council's documentary records, and legal advice was sought. Endorsement of the suggested position will enable officers to communicate that position to interested parties.

Alternative Options Considered:

The Council could adopt a different position to that set out. This option has been rejected, as the position suggested is considered correct on the basis of analysis of the circumstances, legislation, case law, and historic documentary evidence.

2. Details of the Call-In of the Cabinet Member Decision

2.1 The following Members of the Council (who are not Members of the Cabinet) signed the requisition for the call-in, in relation to Knob Hall Lane, Southport, in accordance with the provisions of the Overview and Scrutiny Committee Procedure Rules in Chapter 6 of the Council's Constitution:

- Councillor Evans
- Councillor Dodd
- Councillor Pugh

2.2 In the requisition for the call-in, the following reasons were given by all the above Members:

“(1) to seek more understanding of the decision and its implications - as whilst legal advice has been given, it is believed there are other solutions which would be fairer to the residents, such as:

- Continuing to maintain the previous policy to maintain Knob Hall Lane to a 'keep safe' standard in recognition of its unique position and the role it plays in accessing three adopted cul-de-sacs.
- Considered any alternative route to adoption, including assisting funding, reconvening contact with the Hesketh estate or any alternative options.

(2) to question the soundness of the decision based on facts taken or not taken into account - to seek alternative solutions which the council has not examined. Effectively, it is believed that the council have sought legal advice and not sufficiently considered that there is an alternative to that legal advice. The call-in Members and many residents believe that the council have a moral obligation to the residents of Knob Hall Lane that is not being served by this new policy which will see the lane deteriorate even more than it already has and see hundreds of residents, including those living on adopted roads, forced to travel on unsafe and unmaintained roads to access their properties”

2.3 The Constitution sets out the following requirements with respect to call-in:

“All requisitions for call-in shall refer to a specific decision and provide a reason. A decision may only be the subject of one call-in. A decision may only be called-in for the following purposes:

- a) to seek more understanding of the decision and its implications;
- b) to question the soundness of the decision based on facts taken or not taken into account;
- c) to identify the need for Council policies to guide decisions;
- d) to make recommendations to the Cabinet and/or Council;
- e) to question whether the decision conforms with agreed policies.”

2.4 Members are asked to consider the requisition cited above (in paragraph 2.2) and determine which ground or grounds apply to the requisitions, if any. If the Committee determines that the requisitions fall within one of the grounds, then it can proceed to consider whether it is concerned with the decision.

2.5 The Secretary of State in his guidance recommends that the Overview and Scrutiny Committees should only use the power to refer matters to the full Council if they consider that the decision is contrary to the policy framework or contrary or not wholly in accordance with the budget.