

Summary of call-in mediation session regarding Portfolio Holder decision HOU-025-23. Title: Update for Viability Assumptions used for HRA affordable housing delivery - April 24

Session held: 6pm, Monday 13 May 2024

In attendance:

Cllr Willetts, Deputy Chairman of Scrutiny Panel

Cllr Sunnucks, Lead member on the call-in

Cllr Smith, Portfolio Holder for Housing

Cllr Naylor, signatory to the call-in

Lucie Breadman, Strategic Director

Owen Howell, Democratic Services Officer

Summary

Councillor Smith asked for the withdrawal of one of the two grounds given for call-in, namely the alleged contravention of Article 12.02(g), 'presumption for openness'. Councillor Smith explained that he had considered it inappropriate to defer the decision until after the elections of 2 May 2024, as this would be unfair to potentially leave for a new Portfolio Holder to make, so early in their taking on of the portfolio. Councillor Smith stated that the decision had not been taken in a dishonest or deceitful way.

Councillor Sunnucks agreed to withdraw the claim that Article 12.02(g) had been contravened, on the condition that the content of the decision report be transparently discussed by the Scrutiny Panel at its meeting on 16 May 2024. Councillor Willetts, chairing the mediation session, clarified that the decision as to whether the matter was to be discussed in open or closed session was not for decision at the mediation session, but would be decided via a vote of the Scrutiny Panel on 16 May 2024.

Councillor Sunnucks, as lead member on the call-in, then covered each of the different aspects of the call-in's second ground given, namely that the decision was not taken in line with Article 12.02(i), 'due weight to all material considerations.' These can be found in Confidential Appendix B.

Discount and interest rates.

Councillor Smith explained that he had made a decision to set an assumption for the discount rate at a level that was 0.5 percentage points higher than the level recommended by officers. This was due to consideration of the 25 year gilt rates, and explained that he had based his decision on the 25 year rate, rather than the 45 year rate, noting that these were not significantly different.

Councillor Sunnucks explained his position, and concerns regarding the Housing Revenue Account [HRA], including the importance of scrutinising the cost of borrowing, given the £131m additional borrowing set out. Extra projects would entail additional borrowing, with Councillor Sunnucks arguing that the marginal interest rates expected needed to be considered and appropriately costed in to the calculations made, when calculating project viability. Councillor Smith explained that borrowing was split between HRA and General Fund borrowing, with the Council having borrowed large amounts in long-term loans at very low interest rates. He had considered factors such as the 25 year gilt rate before using his personal judgement to set interest rate assumptions for the future. Councillor Smith informed Councillor Sunnucks that Link had not been consulted about this decision **No agreement was reached on this part of the call-in.**

Councillor Willetts reminded those in attendance that the matter in question was whether Councillor Smith, as Portfolio Holder, had taken the decision/s in correct manner, rather than whether members agreed with the decision taken.

Costs

Councillor Sunnucks outlined his concern that there were significant differences between the appraisal assumptions, and what the costs actually were, especially management costs, which he argued were far higher than the assumptions given. The concern was given that the decision made was an example of 'pricing on the margins', which Councillor Sunnucks posited was not the approach that should be taken.

Councillors Smith explained that only direct costs were included in the cost figures given within the decision report, with indirect costs, such as the cost to Colchester Borough Homes [CBH] of renting office space at Rowan House, not being included. Following questioning, Councillor Smith explained that there was no specific list of direct and indirect costs given for the model operated by the Council and CBH. Councillor Sunnucks did not accept this, and argued that the whole picture should be examined, given the size of the capital expenditure and associated additional borrowing.

Councillor Willetts stated that the call-in was not related to looking at the model used by the Council, but was concerned only with the assumptions which were fed into the model, going on to ask if the model used by the Council was in the public domain. Councillor Smith did not know if this was the case, and Councillor Sunnucks explained that he had requested it multiple times but had not been provided with a copy. Councillor Sunnucks insisted that indirect costs must be discussed and considered in the decision making. **No agreement was reached on this part of the call-in.**

Inflation

Councillor Sunnucks asked whether Councillor Smith had taken into account that the assumption for rent inflation given would lead to rent increases of 25% over 45 years, and further asked what the basis was for the assumption given for rental inflation. Councillor Smith explained that the Government expectation was for annual rent increases of CPI [Consumer price index] plus one percent. **No agreement was reached on this part of the call-in.**

Terminal value

Councillor Sunnucks argued that appraisals needed to be addressed, with no information having been provided. These should be evaluated, especially where decisions were made to build new properties, when it might be cheaper to buy additional stock. Councillor Smith explained that cash returns were looked for, with the period of return being over the 45 years. Councillor Sunnucks ventured that this approach would make viable projects unviable, if the value after 45 years was not given, whether this involved asset sales or not. Councillor Smith noted that this call-in was on the variables being inputted into the Council's model, rather than the model itself. Councillor Willetts noted that no agreement had been reached. **No agreement was reached on this part of the call-in.**

Land cost and 'Build or buy?'

Councillor Sunnucks agreed that the aspects of the call-in concerning Sections five and six of Appendix B ['Land cost' and 'Build or buy?' respectively] were outside of the scope of the call-in, and would not go forward for consideration as part of the call-in, but were nevertheless very important matters that needed consideration and scrutiny, even if via another channel. **Agreement was found on these two parts of the call-in, that they would not proceed to be considered by Scrutiny Panel.**

Councillor Sunnucks urged that the entirety of the call-in report and its appendices in the agenda for 16 May 2024 be republished as publicly available documents, and for the item to be considered in open session by Scrutiny Panel, rather than in closed session [as a Part B discussion]. Owen Howell explained that the report sponsor, Philip Sullivan, Strategic Lead for Housing, had confirmed that the content of the decision report was commercially sensitive and therefore the report had been classified as exempt from open publication. Owen Howell committed to raising this matter with Philip Sullivan to request more information as to why the decision and its report contents had been classified as commercially sensitive and therefore as being confidential.