



**EXECUTIVE OVERVIEW &
SCRUTINY COMMITTEE:**

DATE: 28 March 2019

Report of: Borough Solicitor

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**SUBJECT: CALL IN ITEM – LEASEHOLDER PROPERTIES AND THE PLANNING
PROCESS**

Borough wide interest

1.0 PURPOSE OF THE REPORT

1.1 To advise the Executive Overview and Scrutiny Committee of the reason for the call in of the decision on the above item set out in Minute No.100 of the Cabinet Meeting held on 12 March 2019.

**2.0 RECOMMENDATION TO EXECUTIVE OVERVIEW AND SCRUTINY
COMMITTEE**

- 2.1 That the Committee determines whether it wishes to ask for a different decision.
- 2.2 That if the Committee does wish to ask for a different decision, the Committee indicates which of the options set out at paragraph 6.1 below, it wishes to pursue.
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3.0 BACKGROUND

- 3.1 At its meeting on 12 March 2019 Cabinet received a report which advised on the Council's ability to restrict the development of further leasehold homes through the planning process.
- 3.2 The decision of Cabinet reads as follows:-

100 – LEASEHOLDER PROPERTIES AND THE PLANNING PROCESS

The Leader introduced the report of the Director of Development and Regeneration which advised upon the Council's ability to restrict the development of further leasehold homes through the planning process.

In reaching the decision below, Cabinet considered the details as set out in the

report before it and accepted the reasons contained therein.

RESOLVED That the report be noted.

- 3.3 A copy of the report of the Director of Development and Regeneration as submitted to Cabinet on 12 March 2019 is attached as Appendix 1.

4.0 DETAILS RELATING TO THE CALL IN

- 4.1 The following reason for call in was given in the requisition:-

"While the report notes that there is little that can be done within the planning process to influence whether new homes operate under leasehold basis, members are keen to explore the extent to which the council may be able to exert influence over the sometimes onerous lease terms, for both existing and future housing in the borough".

- 4.2 The requisition also provided a different decision which was:

"That Cabinet asks the Chief Executive, in consultation with the leader, to examine potential for any further measures that might be invoked, within existing legislation, which might reduce the onerous terms of the kind of leaseholds which are of concern to members".

- 4.3 The following Members of the Executive Overview & Scrutiny Committee signed the requisition for call-in in accordance with the provisions of Overview & Scrutiny Committee Procedure Rule 15:

Councillor P Cotterill
Councillor V Cummins
Councillor T Devine
Councillor S Evans
Councillor L Savage
Councillor C Wynn

5.0 COMMENTS OF THE DIRECTOR OF DEVELOPMENT AND REGENERATION AND BOROUGH SOLICITOR

- 5.1 Existing legislation does not provide the Council with the power to intervene to reduce onerous leasehold terms. However, as noted in the Director of Development and Regeneration's report, the Secretary of State for Communities and Local Government has stated his intention to introduce new legislation to make the leasehold system in England fairer and more transparent. In addition, and as noted, the Law Commission's report on leasehold enfranchisement is awaited, as a change in the law will be required in order to afford better protection to leaseholders.

- 5.2 Following consideration of the report by Cabinet, the Housing, Communities and Local Government Select Committee has lent its weight to the call for urgent reform through the publication of its report, on 19 March 2019, recommending a series of measures to redress the balance of power towards leaseholders in order to avoid their exploitation by developers, freeholders and managing agents.

6.0 CONCLUSION

- 6.1 Following consideration of the decision of Cabinet, the requisition for call in and the comments of the Director of Development and Regeneration, the Executive Overview and Scrutiny Committee can decide if it wishes to ask for a different decision. If the Committee does not wish to ask for a different decision then the decision of Cabinet takes immediate effect. If the Committee does wish to ask for a different decision, it may:
- a. refer the decision back to Cabinet (as the decision making body) for reconsideration, setting out the different decision:

or

 - b. refer the matter to Council. If the matter is referred to Council and Council does not object, then the decision of Cabinet will take effect immediately from that Council meeting date. If the Council does object, then the decision and the objection will be referred back to Cabinet (as the decision making body) for reconsideration.
- 6.2 The Secretary of State in his Guidance recommends that Overview & 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 to or not wholly in accordance with the budget.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Appendices

1. Report of the Director of Development and Regeneration "Leaseholder Properties and the Planning Process" on 12 March 2019.