



Tuesday, 20 February 2024

Dear Sir/Madam

A meeting of the Overview and Scrutiny Committee will be held on Wednesday, 28 February 2024 in the Council Chamber, Council Offices, Foster Avenue, Beeston, NG9 1AB, commencing at 7.00 pm.

Should you require advice on declaring an interest in any item on the agenda, please contact the Monitoring Officer at your earliest convenience.

Yours faithfully

Chief Executive

To Councillors:	S Dannheimer (Chair)	J M Owen
	W Mee (Vice-Chair)	A W G A Stockwell
	E Williamson (Vice-Chair)	C M Tideswell
	H L Crosby	S Webb
	K Harlow	E Winfield
	H Land	K Woodhead
	R D MacRae	

A G E N D A

1. APOLOGIES

To receive apologies and to be notified of the attendance of substitutes.

2. DECLARATIONS OF INTEREST

(Pages 3 - 10)

Members are requested to declare the existence and nature of any disclosable pecuniary interest and/or other interest in any item on the agenda.

3. CONSIDERATION OF CALL - IN

(Pages 11 - 18)

To consider any matter referred to the Committee for a decision in relation to the call in of a decision.

4. EXCLUSION OF PUBLIC AND PRESS

The Committee is asked to RESOLVE that, under Section 100A of the Local Government Act, 1972, the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1, 2, and 3 of Schedule 12A of the Act.

5. OPPORTUNITY TO DEVELOP FIVE NEW HOMES AND ONE REFURBISHED HOME - APPENDIX 2

(Pages 19 - 20)

Report of the Monitoring Officer

DECLARATIONS OF INTEREST

1. Purpose of Report

Members are requested to declare the existence and nature of any disclosable pecuniary interest and/or other interest in any item on the agenda. The following information is extracted from the Code of Conduct, in addition to advice from the Monitoring Officer which will assist Members to consider any declarations of interest.

Part 2 – Member Code of Conduct

General Obligations:

10. Interest

10.1 You will register and disclose your interests in accordance with the provisions set out in Appendix A.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of Members of the Council. The register is publically available and protects you by demonstrating openness and willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting which allows the public, Council employees and fellow Councillors know which of your interests gives rise to a conflict of interest. If in doubt you should always seek advice from your Monitoring Officer.

You should note that failure to register or disclose a disclosable pecuniary interest as defined in Appendix A of the Code of Conduct, is a criminal offence under the Localism Act 2011.

Advice from the Monitoring Officer:

On reading the agenda it is advised that you:

1. Consider whether you have any form of interest to declare as set out in the Code of Conduct.
2. Consider whether you have a declaration of any bias or predetermination to make as set out at the end of this document
3. Update Democratic Services and the Monitoring Officer and or Deputy Monitoring Officers of any declarations you have to make ahead of the meeting and take advice as required.
4. Use the Member Interest flowchart to consider whether you have an interest to declare and what action to take.
5. Update the Chair at the meeting of any interest declarations as follows:

‘I have an interest in Item xx of the agenda’

'The nature of my interest is therefore the type of interest is
DPI/ORI/NRI/BIAS/PREDETERMINATION
'The action I will take is...'

This will help Officer record a more accurate record of the interest being declared and the actions taken. You will also be able to consider whether it is necessary to send a substitute Members in your place and to provide Democratic Services with notice of your substitute Members name.

Note: If at the meeting you recognise one of the speakers and only then become aware of an interest you should declare your interest and take any necessary action

6. Update your Member Interest Register of any registerable interests within 28days of becoming aware of the Interest.

Ask yourself do you have any of the following interest to declare?

1. DISCLOSABLE PECUNIARY INTERESTS (DPIs)

A "Disclosable Pecuniary Interest" is any interest described as such in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and includes an interest of yourself, or of your Spouse/Partner (if you are aware of your Partner's interest) that falls within the following categories: Employment, Trade, Profession, Sponsorship, Contracts, Land, Licences, Tenancies and Securities.

2. OTHER REGISTERABLE INTERESTS (ORIs)

An "Other Registerable Interest" is a personal interest in any business of your authority which relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority; or
- b) any body
 - (i) exercising functions of a public nature
 - (ii) anybody directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a Member or in a position of general control or management.

3. NON-REGISTRABLE INTERESTS (NRIs)

"Non-Registrable Interests" are those that you are not required to register but need to be disclosed when a matter arises at a meeting which directly relates to your financial interest or wellbeing or a financial interest or wellbeing of a relative or close associate that is not a DPI.

A matter "directly relates" to one of your interests where the matter is directly about that interest. For example, the matter being discussed is an application about a particular property in which you or somebody associated with you has a financial interest.

A matter “affects” your interest where the matter is not directly about that interest but would still have clear implications for the interest. For example, the matter concerns a neighbouring property.

Declarations and Participation in Meetings

1. DISCLOSABLE PECUNIARY INTERESTS (DPIs)

1.1 Where a matter arises at a meeting which **directly relates** to one of your Disclosable Pecuniary Interests which include both the interests of yourself and your partner then:

Action to be taken

- **you must disclose the nature of the interest** at the commencement of that consideration, or when the interest becomes apparent, whether or not such interest is registered in the Council’s register of interests of Member and Co-opted Members or for which you have made a pending notification. If it is a sensitive interest you do not have to disclose the nature of the interest, just that you have an interest
- **you must not participate in any discussion** of that particular business at the meeting, or if you become aware of a disclosable pecuniary interest during the meeting you must not participate further in any discussion of the business, including by speaking as a member of the public
- **you must not participate in any vote** or further vote taken on the matter at the meeting and
- **you must withdraw from the room** at this point to make clear to the public that you are not influencing the meeting in anyway and to protect you from the criminal sanctions that apply should you take part, unless you have been granted a Dispensation.

2. OTHER REGISTERABLE INTERESTS (ORIs)

2.1 Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests i.e. relating to a body you may be involved in:

- **you must disclose** the interest at the commencement of that consideration, or when the interest becomes apparent, whether or not such interest is registered in the Council’s register of interests of Member and Co-opted Members or for which you have made a pending notification. If it is a sensitive interest you do not have to disclose the nature of the interest, just that you have an interest
- **you must not take part in any discussion or vote** on the matter, but may speak on the matter only if members of the public are also allowed to speak at the meeting
- **you must withdraw from the room** unless you have been granted a Dispensation.

3. NON-REGISTRABLE INTERESTS (NRIs)

3.1 Where a matter arises at a meeting, which is not registrable but may become relevant when a particular item arises i.e. interests which relate to you and /or other people you are connected with (e.g. friends, relative or close associates) then:

- **you must** disclose the interest; if it is a sensitive interest you do not have to disclose the nature of the interest, just that you have an interest
 - **you must not take part in any discussion or vote**, but may speak on the matter only if members of the public are also allowed to speak at the meeting; and
 - **you must withdraw** from the room unless you have been granted a Dispensation.
-

Dispensation and Sensitive Interests

A “Dispensation” is agreement that you may continue to participate in the decision-making process notwithstanding your interest as detailed at section 12 of the Code of the Conduct and the Appendix.

A “Sensitive Interest” is as an interest which, if disclosed, could lead to the Member, or a person connected with the Member, being subject to violence or intimidation. In any case where this Code of Conduct requires to you to disclose an interest (subject to the agreement of the Monitoring Officer in accordance with paragraph 2.4 of this Appendix regarding registration of interests), you do not have to disclose the nature of the interest, if it is a Sensitive Interest in such circumstances you just have to disclose that you have a Sensitive Interest under S32(2) of the Localism Act 2011. You must update the Monitoring Officer when the interest is no longer sensitive, so that the interest can be recorded, made available for inspection and published.

BIAS and PREDETERMINATION

The following are not explicitly covered in the code of conduct but are important legal concepts to ensure that decisions are taken solely in the public interest and not to further any private interests.

The risk in both cases is that the decision maker does not approach the decision with an objective, open mind.

This makes the local authority’s decision challengeable (and may also be a breach of the Code of Conduct by the Councillor).

Please seek advice from the Monitoring Officer or Deputy Monitoring Officers, if you need assistance ahead of the meeting.

BIAS

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias. If you have been involved in an issue in such a manner or to such an extent that the public are likely to perceive you to be biased in your judgement of the public interest:

- a) you should not take part in the decision-making process
- b) you should state that your position in this matter prohibits you from taking part
- c) you should leave the room.

PREDETERMINATION

Where a decision maker has completely made up his/her mind before the decision is taken or that the public are likely to perceive you to be predetermined due to comments or statements you have made:

- a) you should not take part in the decision-making process
- b) you should state that your position in this matter prohibits you from taking part
- c) you should leave the room.

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Registerable Interests

These are interests that you are required to register in accordance with the Code of Conduct. They are interests that you would know about in advance of an item coming up (e.g. land you own) and you should have included them when filling in your register of interests.

What type of Registerable Interest do you have in this matter?

Disclosable Pecuniary Interests

These are any interests that are described as DPIs under the Code of Conduct and include both the interests of yourself and of your partner.

Other Registerable Interests

These are personal interests that relate to certain types of bodies that you may be involved in as set out in the Code of Conduct.

Does the matter directly relate to one of your Disclosable Pecuniary Interests?

No

Does the matter directly relate to the financial interest or wellbeing of one of your Other Registerable Interests?

No

Does the matter affect a financial interest or the wellbeing of yourself or of a friend, relative or close associate?

No

Is the financial interest or wellbeing affected to a greater extent than the financial interests or wellbeing of the majority of inhabitants?

No

Would a reasonable member of the public knowing all the facts believe that it would affect your view of the wider public interest?

No

You must:

- Disclose the interest;
- Not speak on the matter;
- Not participate in any discussion or vote; and
- Not remain in the room unless you have a Dispensation

You must:

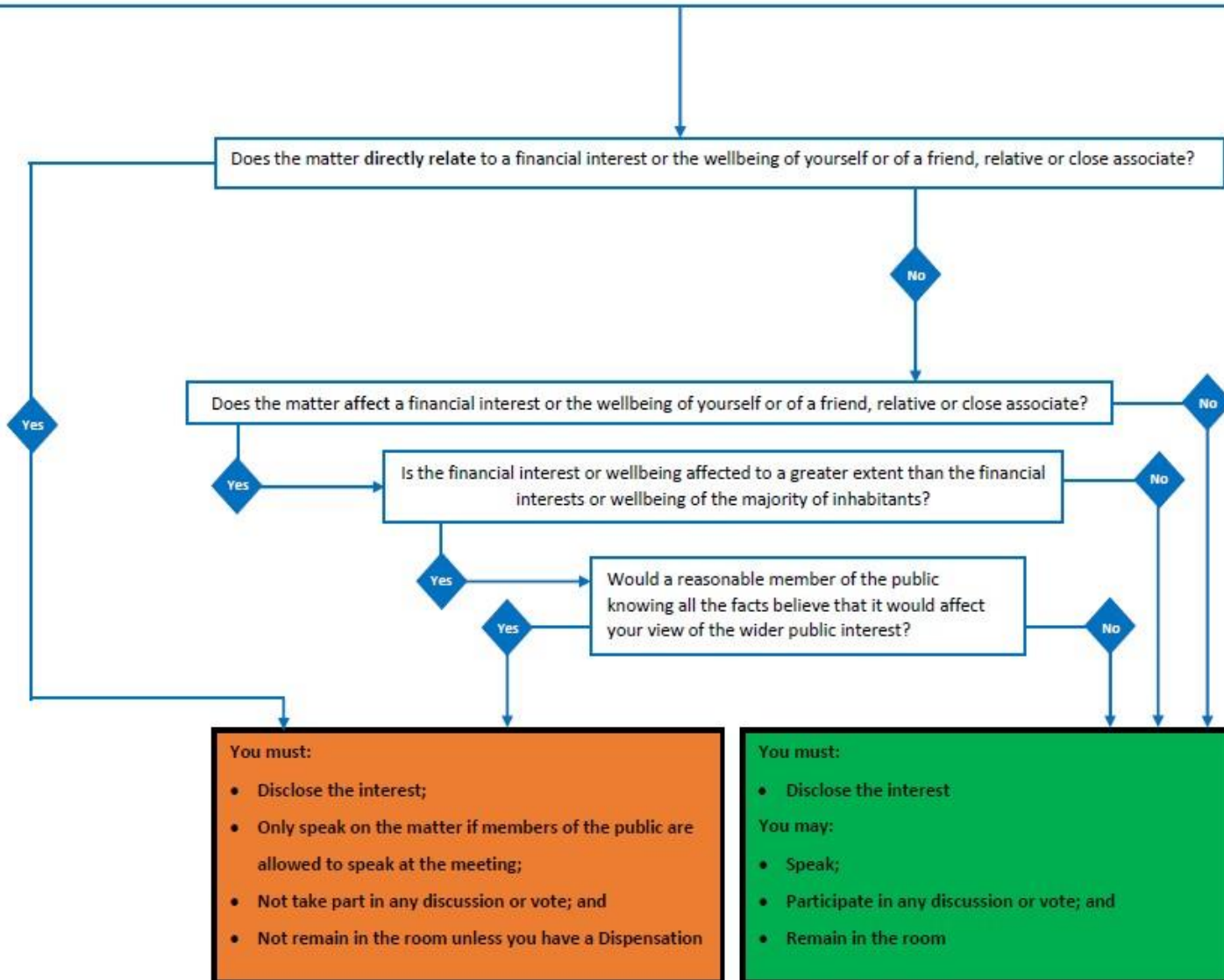
- Disclose the interest;
- Only speak on the matter if members of the public are allowed to speak at the meeting;
- Not take part in any discussion or vote; and
- Not remain in the room unless you have a Dispensation

You must:

- Disclose the interest
- You may:
- Speak;
 - Participate in any discussion or vote; and
 - Remain in the room

Non-Registerable Interests

These are interests that you are not required to register but may become relevant when a particular item arises. These are usually interests that relate to other people you are connected with (e.g. friends, relatives or close associates) but can include your own interests where you would not have been expected to register them.



Report of the Monitoring Officer

CONSIDERATION OF CALL IN – OPPORTUNITY TO DEVELOP FIVE NEW HOMES AND ONE REFURBISHED HOME

1. Purpose of report

To consider the following Call-In resulting from a Cabinet decision taken on Tuesday 6 February 2024.

2. Recommendation

The Committee is asked to CONSIDER the Call-In and RESOLVE accordingly.

3. Decision: Cabinet, 6 February 2024 - Minute Number 125.1

RESOLVED that the production of six dwellings at the Farm Cottage site, as detailed in the report, be approved.

4. The decision has been Called-In by the following Members:

Councillors A Kingdon, D K Watts, S J Carr, B C Carr and H Land.

5. The reasons for the Call-In are as follows:

“We consider the decision should be called in as it is not in accordance with the Council’s decision-making principles and not in the public interest.

In relation to the above we consider that the following principles of decision-making have been breached:

- Open and transparent – this decision was taken without any consultation with local residents
- Take into account all relevant considerations and ignore irrelevant considerations – the decision fails to take into account the views of local residents. Further, Members were not aware of the surveyor’s report received on the day of the Cabinet meeting
- Undertake consultation as required or as may be appropriate – it is appropriate to consult residents who will be adversely affected by this decision. Residents had been told a year before that this decision had been scrapped and had not been told that it was even being reviewed.
- Obtain and consider professional advice as may be required or appropriate – The decision was taken without regard to the surveyor’s report.
- Ensure best value – the decision was scrapped previously as not being value for money. The costs have since increased, something that was not made clear to the members of the Cabinet.”

The following papers have been provided for the consideration of the Committee:

APPENDIX 1 – Call-In Procedure

APPENDIX 2 – Cabinet Report

APPENDIX 3 – Cabinet Report: Appendix 2 OFFICIAL(SENSITIVE)

6. Background Papers

Nil.

Report of the Monitoring Officer

**PROCEDURE FOR THE OVERVIEW AND SCRUTINY MEETING
FOLLOWING THE CALL-IN REQUEST**

1. After the Chair opens the meeting the Members who asked for the decision to be called-in will be asked to explain their reasons for the request and what they feel should be reviewed
2. On matters of particular relevance to a particular Ward Members who are not signatories to a Call-In have the opportunity to make comments on the Call-In at the meeting, such speeches not to exceed five minutes each. Ward Members will take no further part in the discussion or vote. Ward Members must register their request to speak by contacting the Monitoring Officer by 12 noon on the day prior to the relevant hearing;
3. The decision-maker and any relevant Portfolio Holder(s) will then be invited to make any comments;
4. The relevant Head of Service or their representative will advise the Overview & Scrutiny Members on the background and context of the decision and its importance to achieving Service priorities;
5. The Scrutiny Members will ask questions of the Members and Officers in attendance
6. The decision-maker and any relevant Portfolio Holder(s) will be invited to make any final comments on the matter.
7. The Overview & Scrutiny Committee, after considering the evidence presented to the meeting, will make one of the following decisions:
 - a) to take no further action, in which case the decision will take effect immediately;
 - b) refer the decision back to the decision-maker for reconsideration, setting out the nature of the Committee's concerns; the decision-maker must then re-consider the matter within a further 10 working days, taking into account the concerns of the Overview & Scrutiny Committee, before making a final decision;
 - c) to refer the matter to full Council for its views.
8. If, following a request for Call-In, the Overview & Scrutiny Committee does not meet as set out above, or does meet but having decided to refer the decision fails to do so, the decision will take effect on the date upon which the Overview and Scrutiny Committee meeting should have taken place, or the expiry of that further 7 working day period during which the decision should have been referred.

If the matter is referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no place to make decisions in respect of a Cabinet decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-maker, together with the Council's views on the decision. That decision-maker shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet or a Committee a meeting will be convened to reconsider the decision within 10 working days of the Council's request. Where the decision was made by an individual, the individual will reconsider the decision within 10 working days of the Council's request.

9. If the Council objects to the decision but does not refer the decision back to the decision-maker, the decision will become effective on the date of the Council meeting at which the Council considered and referred the decision.
10. If a decision is referred to the Council and the Council fails to meet for the purpose of considering the decision, the decision will take effect on the expiry of the period during which the Council meeting should have been held.

Report of the Portfolio Holders for Housing and Resources and Personnel Policy**OPPORTUNITY TO DEVELOP FIVE NEW HOMES AND ONE REFURBISHED HOME****1. Purpose of Report**

To seek approval to construct five new homes on land adjacent to 51 Ilkeston Road, Bramcote NG9 3JP, as specified by Planning consent 21/00038/REG3, and to refurbish Farm Cottage at the site to bring it back into use for Social Rent as one home.

2. Recommendation

Cabinet is asked to RESOLVE that the production of six dwellings at the Farm Cottage site, as detailed in the report, be approved.

3. Detail

The Council obtained Planning consent 21/00038/REG3 in June 2021 to develop five dwellings on the land either side of Farm Cottage, Ilkeston Road NG9 3JP. The scheme comprises three houses and one block of two apartments. All to be traditionally built of brick, under tiled roofs. An LABC 12-year warranty against major construction defects will come with these homes.

Following a tendering exercise in 2021 a main Contractor was appointed but the scheme was then placed on hold by Cabinet. The Planning consent will expire on 03 June 2024 so we are requesting that the scheme restarts. The Contractor who won the original tender has recently confirmed his willingness to carry out the work at a price slightly adjusted for inflation.

A detached four-bedroomed six-person house built to accessible standard is planned next to a pair of three-bedroomed five-person houses. On the other side of the existing cottage there will be a two-storey detached building containing two one-bedroomed two-person apartments.

If approved, the houses would be managed by the Council and accounted for in the Housing Revenue Account (HRA). The homes would be let on secure tenancies at Social Rent levels. The designs feature air-source heat pumps and meet Nationally Described Space Standards (NDSS) in line with the Council's policy for new-build homes.

Located between the sites of the proposed flats and houses is Farm Cottage. This long-term empty building needs prompt attention. A full structural survey has been commissioned with the results of the survey informing the options for future use. It is proposed to refurbish the cottage to the best insulation standards possible for this type of building.

This work should include an air source heat pump and Photo-Voltaic roof panels. The Council will aim to achieve EPC Level C in the cottage. The refurbishment process could inform the approach to de-carbonising the many properties of similar age and construction that are in the Council's housing stock.

APPENDIX 1 contains a map of the area and aerial photograph of the site. **APPENDIX 2** is a confidential appendix containing further commercially sensitive financial information.

4. Key Decision

This is a key decision.

5. Financial Implications

The comments from the Head of Finance Services were as follows:

There is currently budgetary provision for the proposed scheme. If Members were minded to approve the revised proposal, the extra cost would be recognised in the Capital Programme in 2024/25.

6. Legal Implications

The comments from the Monitoring Officer / Head of Legal Services were as follows:

When making decisions in relation to the management or procurement of assets, the Council must act in accordance with its statutory duties and responsibilities. Under Section 120 of Local Government Act 1972, the Council is obliged to ensure that the management of its assets are for the benefit of the Borough. Section 17 of the Housing Act 1985 provides the principal power to (a) acquire land as a site for the erection of houses, (b) acquire houses, or buildings which may be made suitable as houses, together with any land occupied with the houses or buildings, (c) acquire land proposed to be used for the purpose of providing facilities in connection with housing accommodation, and (d) acquire land in order to carry out on it works for the purpose of, or connected with, the alteration, enlarging, repair or improvement of an adjoining house. Pursuant to Section 9 of the Housing Act 1985 the Council may provide housing accommodation by acquiring houses. Section 24 of the Housing Act 1985 Act provides that the Council acting as a housing authority may make such reasonable charges as they may determine for the tenancy or occupation of their houses.

Legal services will provide advice and assistance at each stage of the conveyancing process.

7. Human Resources Implications

Not applicable.

8. Union Comments

Not applicable.

9. Climate Change Implications

These are considered within the report.

10. Data Protection Compliance Implications

The appendix to this report contains OFFICIAL(SENSITIVE) information as detailed in Section 12A of the Local Government Act 1972. It is therefore included in the private section of this agenda. There are no Data Protection issues in relation to this report.

11. Equality Impact Assessment

N/A.

12. Background papers

Nil.

REFERENCE

APPENDIX 1



Document is Restricted

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