

## Appendix 3

### Call-in Request Form

This form must be completed and signed by THREE City of York Councillors and MUST be returned to Democratic Services within 5 working days of the decision being published (not including the day of publication).

|   |  |
|---|--|
| <b>Decision taker:</b>                  | Executive                                    |
| <b>Date of publication of decision:</b> | 15/04/26                                     |
| <b>Title of Decision Called in:</b>     | Housing Delivery Programme Delivery Strategy |
| <b>Date Decision Called in:</b>         | 17/04/26                                     |

| REASONS FOR CALL-IN  |   | Tick which reason applies |
|--|---|---------------------------|
| 1.   | Decision contrary to the policy framework?  |                           |
| 2.   | Decision contrary to or not wholly consistent with the budget?  |                           |
| 3.   | Decision is Key but it has not been dealt with in accordance with the Council's Constitution.                   |                           |
| 4.   | Decision does not follow principles of good decision-making set out in Article 7 of the Council's Constitution. |                           |
| If reason 4, please tick which specific element of Article 7 the decision maker has not followed, did he or she not: |   |                           |
| a)   | Meaningfully consider all alternatives and, where reasonably possible, consider the views of the public.        | X                         |
| b)   | Understand and keep to the legal requirements regulating their power to make decisions.                         |                           |
| c)   | Take account of all relevant matters, both in general and specific, and ignore any irrelevant matters.          | X                         |
| d)   | Act wholly for proper purpose and/or in the interests of the public.  | X                         |
| e)   | Keep to the rules relating to local government finance.   |                           |
| f)   | Follow procedures correctly and be fair.  | X                         |
| g)   | Make sure they are properly authorised to make the decisions.   |                           |
| h)   | Take appropriate professional advice from Officers.   |                           |

#### Detailed Reason(s) for Call-in.

*Please explain below why one of the reasons for call-in applies (e.g. for number 1- which major policy affected and how/why).*

**PLEASE NOTE:** *If you wish to produce and rely on significant supplementary, external evidence in support of your reasons for this call-in it must be provided to Democratic Services prior to the publication of the agenda. It will not be permissible to introduce and rely upon evident at the meeting without it being subject to prior circulation unless by consent of the Chair.*

#### **4(a) – Failure to meaningfully consider all alternatives and views**

The report does not demonstrate that all reasonable alternatives have been properly considered.

In particular, while the report proposes a shift away from both the existing delivery model and the Passivhaus standard, it does not consider a key alternative: adjusting the requirement for 100% affordable housing.

There is no analysis of whether varying the level of affordable housing provision (for example 80%, 70% or 50%) could enable schemes to remain viable while retaining higher environmental standards such as Passivhaus. No modelling, viability testing or options appraisal is presented to demonstrate what level of affordable housing would be required to make Passivhaus deliverable.

This represents a significant omission in the options analysis. The report instead presents a binary choice between retaining the current approach or moving to a new delivery model with reduced environmental standards, without exploring reasonable alternatives in between.

Furthermore, the report acknowledges that the existing Housing Delivery Programme has successfully delivered over 300 homes and offers flexibility, including engagement with SMEs. However, this approach is dismissed with limited analysis and largely speculative language, without a robust comparison of delivery performance, cost, or risk.

Finally, the move away from Passivhaus represents a departure from a previously established policy direction that was developed through member-led processes, including scrutiny, and aligned with the Council's climate commitments. The report does not adequately consider or explain the implications of reversing this position.

**This represents two separate reasons for call-in: firstly, a suggested failure to consider all possible alternatives when formulating options; and secondly, a change in policy direction without the involvement of scrutiny.**

**With regard to the first reason, the call-in fails to recognise that the Council has previously taken a policy decision to require 100% affordable housing on Council-owned development sites. That being the case, options analyses will naturally be constrained to those fulfilling that policy basis. In any event, therefore, it is inevitable that a report will be selective about options considered, since there are an almost infinite number of possible scenarios (99% affordable housing; 98% affordable housing, etc.) which could be considered but which do not achieve the policy objective. In such circumstances, it would not only be wholly impractical to address all possible options but would fail to adhere to adopted policy. In that context, the options presented reasonably represented the range of available options to achieve the settled policy aim. Consequently, the first element of ground 4(a) must fail.**

**With regard to the second issue, it is noted that the use of Passivhaus standards were the subject of a previous Executive decision; such decisions are, of course, subject to change by Executive, and there is no requirement that such a change should be subject to the same process that was undertaken prior to its introduction (see ground 4f) below). Consequently, the second element of ground 4(a) must fail.**

#### **4(c) – Failure to take account of all relevant matters**

There is no structured or evidence-based review of the Council's current approach to housing delivery, the lessons learned from which could inform decisions on an alternative delivery model.

Additionally, while the report references market challenges and procurement issues, it does not provide sufficient supporting evidence, such as procurement feedback, viability analysis, or exploration of alternative delivery mechanisms.

**Whilst the report generally considers the issues of market challenges and procurement issues, it is reasonable to expect that market feedback and consequent high-level viability assessments should be included, to provide evidential support for the revised policy. The report could also have posed the question as to whether, given the identified issues, Executive wished to reaffirm its commitment to 100% affordable housing as an alternative to the decision to step away from Passivhaus standards. Consequently, this ground of call-in is valid and may proceed.**

#### **4(d) – Failure to act wholly for proper purpose and/or in the public interest**

The decision proposes entering into a long-term Strategic Delivery Partnership (potentially 10–15 years), alongside maintaining a requirement for 100% affordable housing and moving away from Passivhaus standards.

Such a decision must clearly demonstrate that it represents the best outcome in the long-term public interest. However, the report does not adequately consider whether alternative approaches could deliver greater overall public benefit.

In particular, there is no analysis of the financial opportunity cost associated with maintaining a 100% affordable housing requirement across all sites. A mixed approach, incorporating an element of market housing, could generate significant capital receipts. These receipts could potentially be reinvested into delivering additional affordable homes across a greater number of sites, accelerating overall housing delivery, or supporting wider strategic priorities for the city.

**Whilst the decision seeks authority to procure a long-term strategic development partner for housing developments, it was equally clear that different schemes under that development partner framework would be awarded individually, without any commitment to, or guarantee of, future schemes. As such, the demonstration of value for money is an issue to be determined as part of those individual awards rather than as part of the broad approval to seek a strategic development partner. It is noted that the report includes authority to proceed with a contract award in respect of five**

sites, but the report also notes “Schemes in the initial phase of the Strategic Delivery Partnership have existing approved budgets for pre-construction”; these schemes have, therefore, already been assessed for value for money. Finally, the suggestion that an alternative delivery model to 100% affordable housing may deliver a greater receipt to the Council, and this may be the case; however, the assessment of value for money is not solely a financial one but also must consider the policy aims adopted by the Council; were that not the case, then all developments proposing affordable housing would fail a value for money assessment, as greater financial value could be achieved through open market sales. Consequently, this ground must, therefore, fail.

**4(f) – Failure to follow procedures correctly and be fair**

The decision has not followed a fair and robust decision-making process.

This is a significant policy shift involving a new long-term delivery model, changes to environmental standards and major financial and governance implications.

Despite this, the report was not referred to scrutiny prior to decision, and there has been no opportunity for detailed cross-party examination of the proposals, options, and supporting evidence.

In addition, the report proposes extensive delegation to officers to take forward procurement, contractual, and land-related decisions, with limited ongoing member oversight. The scale of these delegations, combined with unclear allocation of responsibilities between directors, raises concerns about transparency, accountability, and fairness in decision-making.

Given the scale and long-term implications of the decision, it would have been appropriate and procedurally fair for the matter to be considered by scrutiny prior to determination.

**Whilst pre-decision scrutiny may be desirable, there is no legal or constitutional prohibition on decisions being taken without that scrutiny having taken place (hence the availability of call-in for post-decision scrutiny). As such, there is no evidence that the decision either fails to follow legal or constitutional procedures, or that in doing so it is unfair. This ground must, therefore, fail.**

|    | Name (please print) | Signature ( <i>please note that signatures will not be published with the agenda. Electronic signature will be accepted</i> ) | Date     |
|----|---------------------|---|----------|
| 1. | Cllr Nigel Ayre     | Nigel Ayre  | 17/04/26 |
| 2. | Cllr Andrew Hollyer | Andrew Hollyer  | 17/04/26 |
| 3. | Cllr Derek Wann     | Derek Wann  | 17/04/26 |

**For office use only:**

Received on behalf of the Monitoring Officer by: (signature)

Name:

Date:

Time:

**Validation check (if necessary):**

Monitoring Officer

Valid: **YES** in part

Reason: **As noted in the red commentary above, the call-in raises some issues which require further clarification and information, under Ground 4(c); No other grounds may be argued.**

Completed by:



Date: 20 April 2026

Time: 13:40

**Addendum**

Following the issuing of the above, a request for reconsideration was received in the following terms:

I am writing to seek clarification and to challenge aspects of the assessment in relation to grounds 4(a) and 4(f), where it is the Lib Dem view that the reasoning set out in the call-in has not been fully reflected.

**Ground 4(a) – Consideration of Alternatives**

Your response suggests that the call-in fails to recognise that options are necessarily constrained by the Council's existing policy of delivering 100% affordable housing, and that it would be impractical to consider all possible variations.

However, this mischaracterises the call-in.

The point being made is not that every conceivable percentage of affordable housing should be modelled. The concern is that a realistic alternative has not been considered at all, namely:

“what level of affordable housing would be required to make Passivhaus deliverable.”

This is a clearly defined alternative, directly relevant to the decision being taken. Given that the justification for the decision rests heavily on viability and deliverability concerns, the absence of any analysis of this option represents a failure to meaningfully consider reasonable alternatives and should be left to scrutiny to decide whether it is valid.

#### **Ground 4(f) – Fairness and Procedural Issues**

There are two points where I believe the reasoning provided does not fully address the concerns raised in the call-in.

The call-in ground explicitly includes whether the decision-maker has “followed procedures correctly and been fair.”

While we recognise that there may be no legal or constitutional requirement for pre-decision scrutiny, the issue raised is of fairness and good decision-making practice.

Fairness is a value judgement. It is the view of the councillors submitting the call-in that the process followed (given the scale of the decision, the long-term implications, and the absence of prior scrutiny) was not fair or sufficiently robust. It is our view that only the Scrutiny Committee is able to assess the fairness of the process and decide whether or not this item is valid.

In addition, the call-in raised concerns regarding the extent of delegation to officers, including procurement, contractual, and land-related decisions across multiple schemes.

This point does not appear to have been addressed in your response. The concern is not about legality, but about whether the scale of these delegations, combined with the lack of prior scrutiny, meet the standards of transparency, accountability, and fairness expected in decision-making of this magnitude.

We would therefore ask that this element of ground 4(f) is also reconsidered.

In response, I issued the following clarification:

#### **Ground 4(a)**

I appreciate the point you're seeking to make here: that the essential unanswered question is where the 'tipping point' is between Passivhaus being viable and not viable. However, I don't think that this falls within ground 4(a), as it's asking why officers didn't present an option explicitly designed to change the presently-adopted policy of 100% affordable housing. I don't, therefore, see that it can proceed under ground 4(a).

That being said, it does seem to me that it's a legitimate question under ground 4(c), as it would have been understandable for officers to provide confirmation of where that 'tipping point' sits (if such information is held) as part of the background to the decision. To relate it to my comments on ground 4(c), when I noted that Executive could have been asked to reaffirm its commitment to 100% affordable housing, it could have been done in the context of '... because if you move to X% affordable housing then you can instead choose to retain Passivhaus standards'. On that basis, I'm comfortable that the 'tipping point' question be addressed, insofar as it can be, as part of ground 4(c).

#### Ground 4(f)

I'm afraid that I can't see the validity of your argument on this; the difficulty with your approach is that, if adopted, it means that any decision not subject to pre-decision scrutiny is automatically procedurally unfair. That cannot be the case, and that is perhaps emphasised by the very existence of the call-in powers. Thus, it's not unfair to fail to take a decision straight to Executive, irrespective of how impactful that decision might be, but it does expose the decision-maker to the 'risk' of it being called in.

Turning to the scale of the delegations, I would note that whilst the delegations are operationally extensive, recommendation (c) was that Executive "Approve that prior to entering into any major construction contract in the HDP, a business case will be brought back to Executive for approval", and recommendation (g) was that Executive "Agree to delegate authority to the Director of Housing and Communities and/or the Director of City Development (as appropriate based on the site) (in consultation with the Director of Finance and the Director of Governance) to undertake feasibility and due diligence work on additional sites in the pipeline, and to bring forward scheme specific business cases to Executive for decision on inclusion in the Partnership."

Thus, authority is being given to the appropriate Director (based on the scheme in question) to progress schemes which have already been through Executive, and to procure the development partner to deliver those schemes; however, the delegation beyond that for other sites which have not yet been approved is still fettered by a requirement that the business cases for those additional schemes must be approved by Executive before they can be included in the delivery partnership arrangement. That seems to be a reasonable compromise to allow officers to progress with the broader 'partnership' piece of work, together with delivery of schemes which have already been approved, but preventing them from adding further schemes without express authority.

Finally, whilst I note your concern that it is unclear which Director will be responsible, it seems to me reasonably straightforward that if it is a scheme supported by the HRA, it will come from the Director of Housing, while any other non-housing scheme will come forward from the Director of City Development. I'm afraid, therefore, I do not think that ground 4(f) can proceed.

Completed by:



Date: 21 April 2026

Time: 15:40