APPENDIX 4

REPORT TO EXECUTIVE SCRUTINY COMMITTEE

27 NOVEMBER 2026

REPORT OF THE MONITORING OFFICER

Call-In Validity Report: Billingham Town Centre

Summary

This report considers whether the call-in of Cabinet's decision of 4 November 2026 on Billingham Town Centre is valid.

The question for determination is a narrow one, specifically whether the reasons advanced by the requesting Members are sufficiently connected to the Council's Decision-Making Principles to justify examination through the Council's call-in arrangements.

The assessment distinguishes the merits of Cabinet's decision from the process by which it was reached. It is not the function of the Monitoring Officer, at validation stage, to determine whether the particular acquisition decision was correct or justified by the evidence available at the time, or whether the concerns raised by Members will ultimately be upheld. Those are matters for the Executive Scrutiny Committee. My role is to consider the request as submitted and determine whether it raises identifiable concerns which are sufficiently connected to the Council's Decision-Making Principles, rather than simply expressing disagreement with the outcome or seeking information without a meaningful link to those principles.

Having considered the grounds individually and in the round, I am satisfied that the request is valid. The strongest issues raised concern the proportionality of the immediate acquisition at £13m, and the clarity of the evidence supporting the acquisition. Other grounds are weaker or substantially overlap with those matters. Nothing in this report determines the substantive issues in advance of scrutiny.

Recommendations

That the Executive Scrutiny Committee:

1. Notes the Monitoring Officer's determination that the call-in request is valid; and
2. Proceeds to consider the call-in by reference to the grounds identified in this report.

Background

1. This report considers the call-in of Cabinet's decision of 4 November 2026 on Billingham Town Centre. In undertaking this assessment I have had regard to the Local Government Act 2000, the Council's Constitution and, in particular, the Decision-Making Principles at paragraph 1.35. The question for determination is whether the matters raised in the call-in are sufficient to justify further scrutiny by the Executive Scrutiny Committee.

2. The main proposal which is the subject of the call-in request is the recommendations to acquire Billingham Town Centre for £13million. The report contained 15 recommendations, including delegating decisions to enter into contracts to deliver the Phase 1 works, decanting tenants, preparatory work and business case for proposed demolitions, the management of leases and licences, authority to engage in community engagement, to establish a Billingham Regeneration Board, including appointing Mark White CBE DL as the chair, and to bring a proposed regeneration scheme back to cabinet following consultation and development of a masterplan, none of which form part of the call-in request. The Members submitting the call-in state that the issue is whether members had sufficient reliable information, whether all reasonable alternatives remained genuinely open for consideration, whether the risks were properly understood and whether the decision was proportionate and supported by a sufficiently mature business case. The call-in asks Executive Scrutiny Committee to examine whether Cabinet had the information necessary to make a balanced and properly informed decision before committing the Council to the acquisition.

The Call-In Process

3. Call-in is the statutory mechanism by which Members may hold the Executive (the Cabinet) to account by examining how a decision was reached before it is implemented. It sits within the overview and scrutiny framework established by section 9F of the Local Government Act 2000 and is given effect through the Council's Constitution.

4. Once a call-in has been validated, it is for the Executive Scrutiny Committee to consider the issues raised by the call-in, the information available to Cabinet when the decision was taken and any explanations subsequently provided by Members and officers. My role at this stage is more limited. It is to determine whether the matters raised are sufficiently connected to one or more of the Council's Decision-Making Principles to justify further scrutiny.

5. There is an important distinction between saying that a relevant matter was not considered or adequately explained, disagreeing with the decision reached, and seeking further information. A request framed as a question may nevertheless raise a valid issue where it identifies a specific apparent deficiency which could be material to the decision. Equally, not every request for clarification establishes a valid ground. The question is whether the concern identified is reasonably capable of engaging one or more of the Decision-Making Principles, not whether a breach has already been demonstrated.

6. The principles relied upon within the request are:

    - proportionality;
    - due consultation and the taking of professional advice;
    - respect for human rights and equality;

- a presumption in favour of openness;
- clarity of aims and desired outcomes;
- an explanation of options and reasons for decisions;
- relevant matters not being ignored; and
- clarity and explanation of information provided.

7. Where appropriate, I have considered whether concerns raised under one principle are more properly examined under another.

The Decision Being Challenged

8. The report presented to Cabinet proposed the acquisition of the whole of Billingham Town Centre for a price of £13million for the purposes of facilitating the regeneration of the town centre. Cabinet was asked to approve the acquisition and the purchase price. Cabinet were asked to delegate the application of the £20m Local Regeneration Fund towards the acquisition and delivery of the Phase 1 works to the Director of Regeneration and Inclusive Growth in consultation with the Chief Financial Officer, to develop a full business case for the draw down of circa £10m TVCA funding to be taken back to Cabinet for approval, to delegate the completion of the acquisition having regard to any material changes in the financial, legal or commercial circumstances with a caveat that any material change which calls into question the basis upon which Cabinet approved the acquisition to be referred back to Cabinet. As identified above, there were a number of other recommendations which have not been referred to in the call-in request so are not subject to call-in.

Summary of Grounds Raised

9. The call-in raises concerns regarding

a) a failure to demonstrate that committing £13 million of public money, together with the associated liabilities and risks of ownership, is proportionate to the regeneration outcomes it seeks to achieve;

b) the report confirms that the Council will assume ownership before all condition and compliance liabilities have been fully established;

c) The advice of the s151 Officer concludes that significant financial, value for money and delivery risks remain.

d) Cabinet was required to consider professional advice objectively and establish that material concerns had been adequately addressed before making its decision

e) The Cabinet recommendations defer further work on the masterplan, community engagement and the development of the future regeneration scheme until after acquisition.

f) The report confirms that further surveys and investigations will be required after acquisition. The Council will assume landlord obligations and responsibility for statutory compliance upon completion.

g) The TVCA letter provides a commitment to reserve up to £10 million, but drawdown remains conditional upon approval of detailed business cases and compliance with funding requirements. The LRF funding also remains subject to its conditions and the relevant funder's requirements.

h) The Cabinet report proposes further public engagement after the acquisition has been approved.

i) A decision of this financial and strategic importance must be supported by a transparent and comprehensible record of the evidence, advice and reasoning relied upon. The use of exempt information may be justified for commercially sensitive matters. However, confidentiality should not prevent members from receiving sufficient information to scrutinise the proposal or prevent the public from understanding the basis of the decision to the greatest extent possible.

j) It needs to be established whether Cabinet genuinely considered all reasonable options or was presented with a proposal whose preferred outcome had already been established.

k) The Council's broad objective of regenerating Billingham Town Centre is understandable and supported by the need to address the centre's decline. However, the acquisition decision should have been supported by clear and measurable objectives for the asset and the proposed regeneration. The Cabinet recommendations defer the refreshed masterplan, community engagement, future development proposals and delivery arrangements until after the acquisition.

l) The decision-making principles require members to understand what options have been considered and why the preferred option has been selected.

m) The decision must take account of all relevant matters, including material risks, professional advice, financial implications and alternative options.

n) Recommendations 4-9 delegate significant powers to officers, including acquisition completion, asset management, procurement, demolition, tenant decants and leases. Recommendation 5 refers to material changes which may require a further Cabinet report, but the decision papers should make clear what constitutes a material change and what financial or strategic limits apply.

o) The information presented to members must be clear, consistent and sufficient to support a properly informed decision. The call-in suggests the valuation evidence, repair and condition costs, the business case and economic benefits, the financial exposure and affordability require further explanation and reconciliation.

p) The central concern is whether Cabinet members had sufficient information to weigh the benefits of acquiring Billingham Town Centre against the full financial, commercial and delivery risks. The Cabinet report itself acknowledges at paragraph 31 that the purpose of the decision is to determine whether the risks are proportionate to the potential benefits. Paragraph 32 expressly recognises that not all CIPFA concerns have been resolved. The Section 151 advice also makes clear that significant residual risks remain.

10. The central theme of the call-in is not against the regeneration of Billingham Town Centre. In assessing those concerns I have not assumed that the absence of a particular detail from the published report necessarily means that Cabinet lacked that information. It is an argument that a decision of this scale, involving £13 million of public money and the assumption of substantial commercial and property liabilities, must be based on complete, clear and properly tested information. The Council's own reports acknowledge significant unresolved risks. The business case, masterplan, further property investigations and long-term ownership strategy were not complete. CIPFA's report also raises important questions about the options considered by members in August and the extent to which the preferred approach had already been settled. Cabinet members were required to make a balanced decision based on the evidence available, not simply to endorse the preferred outcome. Where material information remains outstanding, it is legitimate to question whether they were in a position to make

that decision.

11. Summary of Assessment Against the Decision-Making Principles

Decision-Making Principle	Monitoring Officer's Assessment	Determination
Proportionality	Raises questions regarding the purchase price and value for money, the full financial exposure and the proportionality of accepting unresolved risks, it is sufficiently connected to this principle to justify scrutiny.	Valid ground
Due Consultation and Professional Advice	The request does not identify any consultation omission under this principle or any specific professional advice which was unavailable to, or not considered by, Cabinet. The concerns raised are more appropriately considered under other principles.	Not a valid ground
Respect for Human Rights and Equality	There is no evidence provided to demonstrate that no consideration was made to equality or human rights	Not a valid ground
Presumption in Favour of Openness	The issues raised relate primarily to other information which the call-in considers other members should have had access to and the exemption of some information from public access. The exemption of information is permissible and the procedure followed correctly. It does not by itself trigger this principle.	Not a valid ground
Clarity of Aims and Desired Outcomes	The objective of the proposal appears sufficiently clear and the call-in as a whole appears clear on the aims and outcomes. The challenge relates to the chosen approach rather than the stated purpose of the decision.	Not a valid ground
Explanation of Options and Reasons	The call-in raises options that were considered in the Cabinet report and during the debate and appears to be a disagreement about how they were considered as opposed to not being considered at all or sufficiently	Not a valid ground
Relevant Matters Not Ignored	The call-in does not suggest the matters raised in the call-in were not considered or addressed but appears to be more of a disagreement on how they were considered and how much information should have been sought	Not a valid ground

Clarity and Explanation of Information Provided	Raises a number of questions regarding the sufficiency of information to enable Cabinet to weigh the benefits against the full financial, commercial and delivery risks	Valid ground

12. For the avoidance of doubt, a determination that a matter constitutes a valid ground of call-in does not amount to a finding that the relevant Decision-Making Principle was breached. It indicates only that the issue raised is sufficiently connected to that principle to justify further scrutiny by the Executive Scrutiny Committee.

Assessment Against the Decision-Making Principles

Proportionality

13. Decisions should be proportionate to the desired outcome. This is the area which, in my view, gives rise to the strongest arguable issue within the call-in. The call-in repeatedly returns to:

    i. the difference between the acquisition price and valuation evidence;

    ii. the acknowledged limitations of aspects of the acquisition case;

    iii. the distinction between acquisition-stage benefits and future regeneration benefits;

    iv. CIPFA's concerns about the maturity of aspects of the proposal.

14 The cabinet report itself openly acknowledges a number of those matters. For this ground the question therefore is not whether Cabinet was unaware of them. Rather, the issue is whether there is evidence capable of supporting a reasonable argument that Cabinet may not have had sufficiently developed acquisition-specific information available when considering whether immediate acquisition at £13 million represented a proportionate response. This is the one where I do consider there to be sufficient material to justify further scrutiny of that question.

    Assessment: This constitutes a valid ground of call-in.

Due Consultation and Professional Advice

15 Decisions should be taken following appropriate consultation and after taking proper professional advice. The call-in relies heavily upon:

    i. the CIPFA review;

    ii. valuation evidence;

    iii. legal advice;

    iv. wider professional reservations.

    The difficulty I have with this ground is that the evidence appears to demonstrate that extensive advice was in fact obtained and considered. The report itself discusses:

    i. the CIPFA review;

    ii. legal advice;

    iii. valuation evidence;

iv. financial risks;

v. residual concerns.

16. The Chief Financial Officer and the Monitoring Officer reiterated many of those issues at the meeting itself. The call-in appears to be an argument that Cabinet reached a different conclusion from some advisers than as evidence that professional advice was not obtained or considered.

17. The fact that Members seek further information about the technical or financial basis of the proposal is not, without more, evidence that such advice was absent. In substance, the concern is more appropriately considered under the principles dealing with the clarity of information available to decision-makers. I do not therefore regard this as a separate ground in its own right.

18. No evidence regarding consultation is provided under this principle in the call-in request.

Assessment: This does not constitute a valid ground of call-in.

Respect for Human Rights and Equality

19. The call-in refers to impacts upon residents, occupiers and the wider community. It acknowledges that the Cabinet report proposes further public engagement after the acquisition has been approved. This principle does not require consultation to happen prior to a decision.

20. The call-in request also requests a copy of the completed EPIA which was included in the publicly available documents and asks for additional information, however, this does not constitute evidence suggesting that Cabinet failed to consider relevant impacts altogether or that any specific human rights issue was omitted from consideration.

Assessment: This does not constitute a valid ground of call-in.

Presumption in Favour of Openness

21. The call-in relies heavily on:

- the August presentation;
- the September conditional proposal;
- information not shared during the Group Leaders briefing.

22. I accept that these issues may justify further explanation and scrutiny. However, I am not persuaded that they amount to evidence suggesting that Cabinet's decision-making process lacked openness. The chronology itself appears to have been reported through the Cabinet report and supporting papers, albeit not necessarily in exactly the manner preferred by the call-in. Similarly, the existence of the August presentation and September proposal does not amount to evidence of predetermination or a lack of openness.

Assessment: This does not constitute a valid ground of call-in.

Clarity of Aims and Desired Outcomes

23. The aims of the proposal were very clear and appear to be acknowledged in the call-in request that the aims and desired outcome were the regeneration of Billingham Town Centre and to address it's decline The call-in does not materially challenge that objective. Its focus is on the measurable outcomes that Cabinet should have considered and the deferral of a masterplan and consultation. The call-in also suggests that Cabinet should have been able to explain how ownership itself would deliver the desired outcomes, rather than relying on future proposals which had not yet been developed but tis does not demonstrate that the aims and outcomes were not clear and the focus on requiring ownership to achieve the aims is clear from the Cabinet report.

Assessment: This does not constitute a valid ground of call-in.

Explanation of Options and Reasons

24. The call-in argues that alternative options were not sufficiently explored.
The report itself addresses:

- partial acquisition;
- continued negotiations;
- compulsory purchase;
- alternative investment options;
- non-acquisition.

The issue therefore appears to be disagreement with the analysis or weighting attached to those options rather than their absence from the decision-making process.

Assessment: This does not constitute a valid ground of call-in.

Relevant Matters Not Ignored

25. Members identify matters which were addressed in the report but disagree with the extent of the information available and how it could have been presented rather than being matters which were ignored.

Assessment: This does not constitute a valid ground of call-in.

Clarity and Explanation of Information Provided

26. This is the area which overlaps most closely with the proportionality issue identified earlier. The call-in does not appear to suggest that Cabinet was unaware of the principal risks, limitations or concerns associated with the acquisition. The report expressly refers to:

    i. the distinction between the original Jacobs appraisal and the acquisition proposal ultimately being considered;

    ii. the valuation evidence;

    iii. the CIPFA review and its conclusions;

    iv. future funding assumptions;

    v. outstanding liabilities and condition issues;

    vi. future phases of regeneration remaining subject to further development and approval.

27. The issue raised by the call-in is not whether those matters were omitted but, it is whether the information available at the point of decision was sufficiently developed and acquisition-specific to enable Cabinet to understand and assess the relationship between:

    i. the immediate acquisition commitment;

    ii. the risks being accepted;

    iii. the anticipated benefits relied upon to justify the acquisition; and

    iv. the alternatives available.

28. In that respect, I think there is a degree of overlap between this principle and the proportionality principle. The concern is not simply the quality of the decision reached but whether the information available to support that decision was sufficiently clear and developed for the purpose for which it was being used.

29. I am not satisfied that the material establishes a failure of this principle. But with the low threshold I do think it identifies an issue which may reasonably warrant further scrutiny.

    Assessment: This constitutes a valid ground of call-in.

Overall Determination

30. Validation is not concerned with whether Cabinet reached the correct decision, whether satisfactory answers exist to the questions raised, or whether another option would ultimately have represented better value. The question is whether the call-in request, read fairly and as a whole, raises concerns which are sufficiently connected to the Council's Decision-Making Principles to justify further examination through the constitutional scrutiny process.

31. Having considered the request in that way, I am satisfied that two of the grounds meet the threshold.

32. I have not found that any Decision-Making Principle has been breached, nor should anything in this report be taken as suggesting that the concerns raised will ultimately be upheld. My conclusion is simply that the issues raised are sufficiently arguable and relevant to warrant examination by the Executive Scrutiny Committee.

33. The call-in request is therefore valid.

Scope of Scrutiny

34. In light of the grounds supporting validation, the Committee may properly consider:

    a. whether there is evidence capable of supporting a reasonable argument that Cabinet may not have had sufficiently developed acquisition-specific information available when considering whether immediate acquisition at £13 million represented a proportionate response; and

    b. whether the information available at the point of decision was sufficiently developed and acquisition-specific to enable Cabinet to understand and assess the relationship between:

       the immediate acquisition commitment;

       the risks being accepted;

       the anticipated benefits relied upon to justify the acquisition; and

       the alternatives available and

       what information was available to Cabinet regarding the financial implications of the proposal and how those commitments would be funded;

    c. whether the information available to support that decision was sufficiently clear and developed for the purpose for which it was being used.

35. The purpose of identifying these matters is to focus scrutiny on those aspects of the request which engage the Decision-Making Principles. It is not intended to prescribe exhaustively the questions which Members may ask or the evidence they may wish to receive.

36. The scope of the call-in request does not, however, extend to recommendations 6 to 15. The evidence provided in the request for these recommendations is limited to members' understanding of the limit of the delegations within recommendations 4 to 9. Insufficient evidence has been provided to merit a validation of the ground of "Relevant matters have not been ignored" on its own or to bring those recommendations within the scope of the call-in..

Legal Implications

37. This report concerns the operation of the Council's constitutional call-in arrangements and has been prepared having regard to the Local Government Act 2000, the Council's Constitution and *Knowles on Local Authority Meetings*.

Risk Assessment

38. No direct risks arise from this report. Any risks associated with the substantive procurement proposal are matters for Cabinet, officers and the Executive Scrutiny Committee to consider as part of the call-in process.

Background Papers

a. Cabinet Report – Billingham Town Centre (November 2026), including the background papers referred to in that report (including exempt annexes)

b. Cabinet Decision Record – 6 November 2026.

c. Call-In Request.

d. Recording of Cabinet Meeting – 4 November 2026.

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