

Rutland County Council

Objection to the accounts 2018/19 – summary for Audit and Risk Committee

Purpose of report

On 23 April 2021, we issued our final decision on the objection to the accounts which was made by two local electors in July 2019. This short report provides a summary of the objection and the decision to inform members of the Audit and Risk Committee.

Legal background

Under the Local Audit and Accountability Act 2014, which governs the work of external auditors of local government bodies, local electors have a right to make an objection to the accounts of a body. An objection is a formal request for the auditor to either produce a Report in the Public Interest or to go to the High Court to seek a declaration that there is an unlawful item of account. A Report in the Public Interest is a high-profile public report which the body has to consider in a public Full Council meeting within a month of it being issued, and to provide a public, written response to the auditor.

The process of determining an objection is a quasi-judicial one, which the auditor has to carry out in a balanced and proportionate way. If the auditor dismisses an objection in which he has been asked to seek a declaration, the local elector has a statutory right of appeal, but there is no such right if the objection only asked for a Report in the Public Interest

The right to make an objection has been enshrined in statute for many years, and at the most recent review of the legislative provisions in preparation for the 2014 Act it was still felt to be a relevant safeguard and a useful means of ensuring accountability. Typically around 25 objections to local authority accounts are made each year, although the number and significance of these can vary significantly.

The objection

The objection asked us to produce a Report in the Public Interest on two matters relating to the proposed development of the St Georges Barracks site:

- The objectors alleged that the decision to enter into a Memorandum of Understanding with the MoD in August 2017, which was taken by the then-Chief Executive, was taken improperly in that she did not have delegated authority through the Council's constitution to take the decision
- They alleged that the housing needs figures present to Cabinet in July 2018 were distorted in order to justify the development of the St George's site, in that they misrepresented the situation in relation to the existence of windfall sites and the needs met by the Quarry Farm site at Stamford, and ignored the wishes set out in the neighbourhood plans for the larger villages such as Uppingham.

The objection did not specifically ask us to seek a declaration from the Court that the decision to enter into the MoU led to an unlawful item of account, but we nevertheless considered this possibility given that the objection implied that the decision was itself unlawful.

The decision

After careful consideration and following due process, we decided not to uphold the objection ie we decided that we would not issue a Report in the Public Interest on the matters raised. In summary, this was because:

- While it was arguable whether or not the Council's constitution gave delegated authority to the Chief Executive to enter into the MoU, subsequent decision making had not suggested that members felt the decision to be inappropriate, and entering into the MoU did not actually commit the Council to any specific expenditure or lead to predetermination of any future decisions.
- While the housing needs figures presented to members in July 2018 were significantly higher than those presented previously, the differences were explained in the report and there was no indication that members were being deliberately misled. Furthermore, those particular numbers were at a point in time and up-to-date numbers will be subject to full scrutiny in due course during the expected public hearings on the Local Plan.

In our response, we also noted that the possible development of the St George's site, and the emerging local plan in general, were major issues for the Council and that we would continue to monitor the decision-making and governance around this, without interfering in any way with due processes in relation to the Council's planning functions.

Costs

The costs of determining objections are additional to the normal audit fees and go through the 'fee variation' process set out by PSAA Ltd, the body which appoints us as your external auditor. Fees are calculated according to actual time taken and are charged at the grade-related rates specified in our contract with PSAA.

We estimate that the cost for this objection is £xxx.