

BRECKLAND DISTRICT COUNCIL

Report of: Mark Stinson – Executive Manager Governance

To: Overview & Scrutiny Commission – 8th November 2018

Author: Rory Ringer - Democratic Services Manager

Subject: Call-In of the Cabinet decision on Barnham Broom Golf & Country Club Investment Asset

Purpose: This report advises the Overview & Scrutiny Commission on the procedural aspects of Calling In the decision.

Recommendation(s):

- 1) To take no further action, in which case the decision will take effect immediately; **or**
- 2) To refer the decision back to Cabinet for reconsideration, setting out the nature of the Commission's concerns and/or proposed changes to the decision; **or**
- 3) To refer the commission's function to review or scrutinise the decision to full Council.

1.0 BACKGROUND

- 1.1 Call-in is a provision of the Local Government Act 2000 that enables councillors to ensure that the principles of decision-making set out in the Council's Constitution are adhered to. It allows the Council's Overview and Scrutiny Commission to require the Council's executive to reconsider certain decisions prior to implementation.
- 1.2 Call-in is only intended to be used in exceptional circumstances when councillors believe that a decision has been taken in a way that is contrary to the Council's principles of decision making and when representations to the decision-maker about these concerns have not resolved the issue.
- 1.3 A request to call in the Cabinet decision of 16 October 2018 regarding the Barnham Broom Golf & Country Club Investment Asset was made on 22nd October 2018 by three members of the Council in accordance with Breckland Council's call-in procedures as set out in the Constitution.
- 1.4 The reason given for the call-in is that the members concerned believe it is imperative that a greater number of Councillors are able to scrutinise the issue given its size and potential impact on the Council and services that it provides; that Councillors have not been sufficiently involved in the issue, including what can and cannot be released to the public; that the issue should be debated; and that alternatives to the decision taken by Cabinet could include options not agreed by Cabinet on the 16th October.

2.0 BACKGROUND TO THE DECISION

Breckland Council is the freehold owner of Barnham Broom Golf & Country Club and has a long-standing agreement with Barnham Broom Golf & Country Club Ltd, who is the tenant (leaseholder). Both parties are currently at a review point in that relationship and are discussing the terms of the relationship for the future.

This is a commercially confidential arrangement and both the Council and its tenant are legally bound by commercial confidentiality. Breaching that confidentiality has possible legal consequences for both parties. After following all relevant legal and constitutional requirements, the Cabinet took the item below the line because the report contained commercially sensitive business and financial information about both the Council and the tenant.

The agenda item was published on the Exempt Report Planner available to all Members, for longer than the statutorily required 28 days. The item was published on the Cabinet agenda which is available to all Members. The Cabinet report for this item (similar to every Cabinet report) is available for all Members and all Members could attend the Cabinet meeting at which the decision was made.

3.0 REVIEWING THE DECISION

3.1 The process for reviewing the decision is as follows:

3.2 **Initiator of call-in** – The Councillor who have initiated the call-in will set out the purpose of the call-in.

Cabinet Member/Officer – Will set out the reasons for making the decision.

Questions – The Commission will then have an opportunity to ask questions.

Conclusions – The Commission will then, having considered the matter, take a decision on its response to the call-in.

4.0 OPTIONS

4.1 To take no further action, in which case the decision will take effect immediately, or

4.2 To recommend that the decision is reconsidered by Cabinet at its next scheduled meeting, setting out the nature of the Commission's concerns and/or proposed changes to the decision. The Cabinet will then reconsider its decision taking into account the concerns and/or proposals on the Overview and Scrutiny Commission; or

4.3 To refer the commission's function to review or scrutinise the decision to full Council.

5.0 IMPLICATIONS

In preparing this report, the report author has considered the likely implications of the decision - particularly in terms of Carbon Footprint / Environmental Issues; Constitutional & Legal; Contracts; Corporate Priorities; Crime & Disorder; Equality & Diversity/Human Rights; Financial; Health & Wellbeing; Reputation; Risk Management; Safeguarding; Staffing; Stakeholders/Consultation/Timescales; Transformation Programme;

Other. Where the report author considers that there may be implications under one or more of these headings, these are identified below.

5.1 Constitution & Legal

5.1.1 The Local Government Act 2000 and Council's Constitution contain provisions that enable the Overview and Scrutiny Commission to review decisions made by the Cabinet or other Executive decision makers. A call in notice has been received that is compliant with the Council's constitution.

5.1.2 The report considered by the Cabinet was excluded from publication in accordance with Paragraph 3 of Schedule 12A of the Local Government Act 1972 following careful application of the public interest test. The substance of the report deals with a commercially confidential arrangement and both the Council and its tenant are legally bound by commercial confidentiality.

5.2 Stakeholders / Consultation / Timescales

5.2.1 Call in represents an opportunity for Members of the Overview and Scrutiny Commission to consider and review the decision of the Cabinet.

6.0 WARDS/COMMUNITIES AFFECTED

6.1 None

Background papers:-	None
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Key Decision:	No
Exempt Decision:	No

Appendices attached to this report:

Appendix A	Cabinet Report of 16 th October 2018
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