



BRECKLAND COUNCIL

DELEGATED DECISION RECORD

This records a key or other decision taken by an Executive Member, the Cabinet or Cabinet Sub-Committee in accordance with the Council's scheme of Delegations (as set out in Section D of Part 3 of the Council's Constitution).

Unless the Leader and the Chairman of the Overview and Scrutiny Commission certify that the matter is so urgent that the normal five-day scrutiny delay on action should not apply, then this decision will come into force and may then be implemented on the expiry of five working days after the publication of the decision, unless called in under the call-in procedures as set out in Section D of Part 3 of the Council's Constitution.

Portfolio/Cabinet	Cabinet
Report Title (& Reference No.)	Paper Street, Yaxham
Summary Background	To consider how to regularise a breach of a restrictive covenant that had arisen on land transferred from Breckland Council to Yaxham Parish Council.
Author/Contact Officer	Kirsty Mallett (Land Management Officer)
Ward(s) Affected	Upper Yare
Urgent?	No
Key Decision?	No
In Forward Plan?	No
Date Decision Taken	Tuesday, 13 January 2015
Date Published	Thursday, 15 January 2015
Call-In Expiry	Thursday, 22 January 2015
Exempt Information?	No
Decision (Action Agreed)	<p>That the Yaxham Parish Council request be deferred to investigate whether part of the land could be used for amenity use. Delegated authority then be given to the relevant Portfolio Holder to:</p> <ol style="list-style-type: none"> 1) remove the restrictive covenant imposed restricting use of this land as 'Allotment use only' in the Transfer dated 24 October 2011; 2) a further restrictive covenant be imposed to restrict this land as allotment or agricultural use, and

	<p>subject to the above investigation part of the land being used as amenity use;</p> <p>3) impose a further restrictive covenant not to sell the land without first obtaining authorisation from Breckland District Council;</p> <p>4) do so at nil consideration.</p>
<p>Reasons(s)</p>	<p><u>Reasons</u></p> <p>To release the existing restrictive covenant and replace it with a further covenant would allow the Parish Council to retain the land and to take further advice on how to remove the tenant to allow the land to be used in the future for allotments for the local residents. A further covenant could be imposed to protect the Councils financial interests, in the event that the Parish Council did decide at any time to sell the land, which would prevent the Parish Council from disposing of the land without the Council's consent.</p> <p>The Parish Council were not in a position to give the Council £3,000 to release the restrictive covenant, as a consequence of which the Parish Council are in breach of the restrictive covenant.</p> <p>If the land were to be transferred back to Breckland Council at nil cost the Parish Council would no longer be in breach of the restrictive covenant and the Council would have control over the land. Breckland District Council would then need to consider whether to seek Counsel's opinion in relation to the Agricultural Tenancy.</p> <p>The Council could choose if it so wished not to do anything and to allow the situation to remain as is in the interim, to allow the Parish Council to explore in further detail the options available to them to end the agricultural tenancy.</p>
<p>Options</p>	<p><u>Options</u></p> <p>1. To release the restrictive covenant allowing the land to be used for allotment purposes only and replace it with one which would allow the land to be used for the purposes of either agriculture or allotments waiving any fee subject to the Parish Council agreeing to pay Breckland Council's legal fees and adding a further restrictive covenant to prevent the Parish Council from selling the land without first obtaining the authority of Breckland District Council.</p> <p>2. To release the restrictive covenant and replace it with a covenant allowing it to be used for agricultural purposes only subject to the payment of £3,000.</p>

	<ol style="list-style-type: none">3. To ask the Parish Council to transfer the land back to the District Council at nil cost given that it is in breach of the existing restrictive covenant.4. Do nothing.
Further Information	cabinet report - paper street yaxham B 141222 Land at Paper Street Yaxham v2 Location Plan