

27 September 2023 at 7.00 pm

Council Chamber, Argyle Road, Sevenoaks

Published: 25.09.23



This meeting will be livestreamed to YouTube [here](#):

https://www.youtube.com/channel/UCIT1f_F5OfvTzjZk6Zqn6g

Special Scrutiny Committee

Membership:

Chairman, Cllr. Esler; Vice-Chairman, Cllr. Penny Cole

Cllrs. Baker, Ball, Haslam, Horwood, Leaman, Manston, Robinson, Skinner and Williamson

Agenda

There are no fire drills planned. If the fire alarm is activated, which is a continuous siren with a flashing red light, please leave the building immediately, following the fire exit signs.

REASON FOR URGENCY

This meeting has been called as a matter of urgency, in accordance with Section 100B(4) of the Local Government Act 1972. The Chairman has agreed to hold a special meeting of Scrutiny Committee and accept the “call-in” as an urgent matter, as the agenda has missed the statutory despatch deadline, but has been circulated.

The matter is urgent as the Council’s Constitution requires any decision “called-in” to be considered by the Scrutiny Committee within 5 days of it being “called-in.” It has missed the 5 days’ notice, as the decision can only be “called-in” following the publication of the decision which was on 21 September 2023.

	Pages	Contact
Apologies for Absence		
1. Declarations of Interest Any declarations not already registered		
2. Call-in of Executive Decision from the meeting of Cabinet on 19 September 2023	(Pages 1 - 8)	Charlotte Sinclair Tel: 01732227165

EXEMPT INFORMATION

At the time of preparing this agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public.

If you wish to obtain further factual information on any of the agenda items listed above, please contact the named officer prior to the day of the meeting.

Should you need this agenda or any of the reports in a different format, or have any other queries concerning this agenda or the meeting please contact Democratic Services on 01732 227000 or democratic.services@sevenoaks.gov.uk.

CALL-IN OF EXECUTIVE DECISION FROM THE MEETING OF CABINET ON 19 SEPTEMBER 2023

Scrutiny – 27 September 2023

Report of: Chief Executive, Pav Ramewal

Status: For decision

Executive Summary: To consider the decision as set out at Minute 30 taken at Cabinet on 19 September.

Contact Officer: Charlotte Sinclair Ext. 7165

Recommendation to Scrutiny Committee: to either

- a) Take no action, and the decision be implemented,
- b) Ask Cabinet to reconsider the decision,
- c) Refer the matter to Council with or without a recommendation.

Reason for recommendation: In compliance with section 18.30, Appendix C of the Councils' Constitution.

Introduction and Background

1 Following the publication of the Minutes of Cabinet, held on 19 September 2023, five cross party non-executive Members of the Council, Cllrs Gustard, Leaman, Manston, Silander and Skinner have notified the Chief Executive of their request to call in the decision of Minute 30 (a), (b) (i and ii) and (c).

2 The full resolution is as follows:

Resolved: That the

- a) Properties listed in recommendation (b) below, be declared surplus to the Council's requirements;
- b) Disposal of land at
 - i) Forstall, Leigh, by auction be approved;
 - ii) Clarks Lane, Halstead by auction or private treaty, be approved;
- c) Strategic Head of Commercial and Property following consultation with the Head of Legal and Democratic Services and Portfolio Holder for

Agenda Item 2

Finance & Investment, be delegated authority to undertake and enter into the necessary agreements for such land transactions.

- 3 The Members have stated that “in our view they all hang together and are dependent on each other.”

Process of the meeting

- 4 As set out in the constitution, The Chairman will invite one of the signatories to the call-in to address the Committee to outline the reason for the call-in, and the principal points they wish to be addressed (5 minutes).
- 5 Other Members of the Scrutiny Committee may be allowed to raise (in summary form) any additional information they wish to be addressed.
- 6 Any non-Member of the Scrutiny Committee who has signed a request to “call-in” should be allowed to speak at meeting, at the discretion of the Chairman.
- 7 The relevant Cabinet Members should be asked to explain the rationale for the Cabinet’s decision. At the end of the conclusion, other Cabinet Members, may be invited, at the Chairman’s discretion, to address the Committee.
- 8 Relevant Officers may support in order to explain or answer technical, legal or financial points.
- 9 Following these initial stages, any Member of the Committee may ask further questions of the Leader/Portfolio Holder, or in the case of clarification of technical details, the officers.
- 10 Care should be taken to avoid the signatories to the call-in being questioned by other members of the Committee as to their motives, previous views, etc. The purpose of the meeting is to review Cabinet’s decision, not what may have happened at some previous instance.
- 11 The Chairman may sum up the debate before reaching the Committee’s final decision. The options for the Committee are to decide not to intervene, to ask the Cabinet to reconsider the decision, or in an extreme case, to refer the matter the Council with or without a recommendation.
- 12 It should be noted that neither the Council or the Committee may overturn a Cabinet decision.

Other options Considered and/or rejected

The options available to the Committee are set out above.

Key Implications

Financial

None directly arising from this report. Financial implications have already been considered within the Cabinet report.

Legal Implications and Risk Assessment Statement.

The power to “call-in” decisions are set out in the Local Government Act 2000, under section 9F(2)(a) it states:

“to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive.”

And section 9F(4) which states that:

“the power of an overview and scrutiny committee under subsection (2)(a) to review or scrutinise a decision made but not implemented includes power –

- (a) to recommend that the decision be reconsidered by the person who made it,
or
- (b) to arrange for its function under subsection (2)(a), so far as it relates to the decision, to be exercised by the authority”.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users

Net Zero Implications

The decisions recommended through this paper have a remote or low relevance to the council’s ambition to be Net Zero by 2030. There is no perceived impact regarding either an increase or decrease in carbon emissions in the district, or supporting the resilience of the natural environment. Any Net Zero implications had been addressed within the Cabinet report.

Conclusions

The action available to the Scrutiny Committee are to either:

- a) Take no action, and the decision be implemented,
- b) Ask Cabinet to reconsider the decision, or
- c) Refer the matter to Council with or without a recommendation.

Agenda Item 2

Members are reminded that neither the Council nor the Committee may overturn a Cabinet decision.

Appendices

Appendix A – Minutes from the Cabinet meeting held on 19 September 2023

Background Papers

Disposals report – Tranche 2 report to Cabinet

Pav Ramewal
Chief Executive

Minute Extract from Cabinet – 19 September 2023**Disposal of Land – Tranche 2, Minute 30**

The Portfolio Holder presented the report, which sought the disposal of two assets deemed to be surplus to the Council's requirements. The report was also considered by the Finance & Investment Advisory Committee (FIAC) on 5 September and following their discussions, he requested further information from Officers. He advised that it was important to note that in accordance with good asset management practice, the Council regularly reviewed its asset register to determine if its estate was still generally speaking fit-for purpose and met the Council's operational requirements. Officers had undertaken an asset review resulting in these sites being identified as surplus. The review involved amongst other activities, consideration of the site for alternative operational uses or needs, and even the potential for the Council to undertake housing development. Alternative uses for Council purposes were therefore considered.

Reviews were undertaken collaboratively and involved officers from across the Council. The sites were then discussed with the Portfolio Holder prior to entering the formal approval process. In accordance with council policy, the relevant Ward Councillors and the Parish Clerks had been notified and commented in advance of the report going to FIAC. As neither site was necessary on an operational level since they were originally held under the Housing Act in conjunction with adjacent land, they needed to be declared surplus to requirements for accounting purposes before any alternative usage could be considered.

As a Local Authority, the Council was obliged to obtain best consideration in accordance with s123 of the Local Government Act 1972 and if applicable, the Housing Act 1985, otherwise it would need to apply for permission from the Secretary of State. The purpose was to ensure, as far as reasonably possible, that public assets were not sold by public authorities at an under value, save, if at all, with the consent, general or specific, of the Secretary of State. It imposed a duty to achieve a particular outcome, rather than follow any particular process.

The Portfolio Holder further advised that the assets had been valued by an independent valuer in order to demonstrate transparency, assist with setting the reserve price and adhere to statutory and policy requirements. From a capital asset management perspective a disposal entailed not only a capital receipt but also a cost saving in terms of ongoing maintenance. The Asset Management Strategy supported the disposal of assets in order to improve the financial position of the Council.

The Strategic Head of Commercial and Property advised that the two sites identified were surplus to the Council's requirements as they were originally held under the Housing Act in conjunction with adjacent land, prior to the transfer of the Council's housing stock to West Kent Housing Association in 1989. The two sites (Clarks Lane, Halstead and The Forstall, Leigh) were identified following an internal asset review process. Alternative uses for the sites were explored and it was decided that the sites were not required for operational purposes and as such were considered surplus to

Agenda Item 2

Appendix

the Council's requirements. The procedure to be followed, in line with policy, required that once the asset review identified a site or sites considered as surplus and had been evaluated internally, a report should be prepared, discussed with the portfolio holder, before Ward councillors and the parish clerks are notified prior to the report going to FIAC. The Parish Clerks were emailed on 4 August 2023 and so there was sufficient time for comments or representations to be made. Comments received were generally supportive of disposal, albeit requests were made for the sites to be disposed of for affordable housing. He highlighted that the Forstall site was within an archaeological notification area and an area of special control for advertisements, but was not within the green belt, not used as open space and was not designated as an Asset of Community Value.

The strategic reason for disposal was that it would produce much needed capital receipts and improve the current budget position. He further advised that from an asset management perspective the disposal would enable realignment of the Council's property estate, remove corporate landlord liabilities, and provide cost savings for the Direct Services team and the Property team.

The Chairman used her discretion and allowed questions from Members who were also present. In response to questions Members were advised that the receipts from the disposals could bring in additional income to fund other capital projects. It would also reduce the revenue costs, such as the cost of maintenance and grass cutting. The Chairman allowed further input from Members of the Council who expressed their concern at the land being sold and the impact on the community and whether sufficient consultation with the Parish Councils had been taken.

The Cabinet Members discussed the report and in their debate, noted the discussions that had taken place at FIAC. Officer's comments and feedback from the Portfolio Holder were also noted, in particular that the Parish Councils had been emailed and responses had been received, in which no objections had been lodged. The Chairman noted that thorough discussion had taken place at the FIAC meeting, that contributions from Members had been considered throughout the debate, as well as the advice and information given by officers.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That the

- a) properties listed in recommendation (b) below, be declared as surplus to the Council's requirements;
- b) disposal of land at
 - i) Forstall, Leigh, by auction be approved;
 - ii) Clarks Lane, Halstead by auction or private treaty, be approved

Appendix

c) Strategic Head of Commercial and Property following consultation with the Head of Legal and Democratic Services and Portfolio Holder for Finance & Investment, be delegated authority to undertake and to enter into the necessary agreements for such land transactions.

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