
Report to: Overview and Scrutiny Committee **Date of Meeting:** 3 August 2015
(Regulatory, Compliance and Corporate Services)

Subject: Item Called-In - Former Birkdale Library Liverpool Road
Southport

Relevant Cabinet Member: Councillor Paulette Lappin - Regulatory,
Compliance and Corporate Services

Report of: Director of Corporate Services **Wards Affected:** Birkdale

Is this a Key Decision? No **Is it included in the Forward Plan?** Yes

Exempt/Confidential No but the Appendix (providing tender information) of the report is NOT FOR PUBLICATION by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972. The Public Interest Test has been applied and favours the information being treated as exempt

Purpose/Summary

- (1) To advise the Overview and Scrutiny Committee of the relevant aspects of the Constitution and the reasons for the call-in of the decision of the Cabinet on the above item as set out in paragraph 2.3 to this report.
- (2) To seek the views of the Overview and Scrutiny Committee.
- (3) In the event of the Committee being concerned about the decision, the Overview and Scrutiny Committee must decide which of the following courses of action is to be taken in relation to this matter:
 - a) referral of the matter to the Cabinet for re-consideration, setting out the nature of the Overview and Scrutiny Committee's concerns; or
 - b) referral of the matter to Council for the Council to decide whether it wishes to object to the decision (subject to the guidance set out in paragraph 2.5).
- (4) In the event of the Committee being satisfied with the decision, the decision can proceed for implementation immediately following the meeting.

Recommendations:

- (1) That the Committee considers the reasons set out in the extract of the Constitution (see paragraph 2.3) and the requisition for call-in (see paragraph 2.2) and determines its jurisdiction accordingly.
- (2) That the Committee determines whether it is concerned about the Cabinet decision.
- (3) If the Committee is concerned about the decision, that the Committee indicates which of the two options set out in paragraph (3) of the summary set out above, it wishes to pursue.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Jobs and Prosperity	√		
3	Environmental Sustainability	√		
4	Health and Well-Being		√	
5	Children and Young People		√	
6	Creating Safe Communities		√	
7	Creating Inclusive Communities		√	
8	Improving the Quality of Council Services and Strengthening Local Democracy		√	

Reasons for the Recommendations:

The decision of the Cabinet has been called in. The Overview and Scrutiny Committee is required to consider the concerns raised by Councillors.

What will it cost and how will it be financed?

- (A) Revenue Costs - None
- (B) Capital Costs

These were referred to in the original Cabinet report as follows:

The Council will receive a capital receipt together with its professional fees. The Council may also benefit from the New Homes Bonus for the additional homes if the premises are sold for residential development.

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Legal:	Under the Duty of Best Value authorities are required to consider overall value including economic, environmental and social value.
Human Resources	
Equality	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

Impact on Service Delivery: N/A

What consultations have taken place on the proposals and when?

The Head of Corporate Finance & ICT wishes to inform the Committee Members that at the Cabinet meeting all bids were considered as part of the tender exercise and the Cabinet undertook to achieve best value for the Council by accepting the highest tender, and by recognizing the New Homes Bonus of £123,310 which would accrue to the Council from additional homes built (FD 3691/15)

The Head of Corporate Legal Services has been consulted (LD 2974/15) and advised that Section 123 of the Local Government Act 1972 requires that a Council shall not dispose of land [otherwise than by way of a short tenancy] for less than the best consideration that can reasonably be obtained. Section 128 of the Act permits the Secretary of State to give consent to disposals for less than best consideration. Such consent is not required where the undervalue does not exceed £2 million and the local authority considers that it will help it to secure the improvement of the economic, social or environmental well-being of its area

Are there any other options available for consideration?

No – the Overview and Scrutiny Committee must consider the Call-In.

Implementation Date for the Decision

To be determined by the decision of the Overview and Scrutiny Committee.

Contact Officer: Paul Fraser

Tel: 0151 934 2068

Email: paul.fraser@sefton.gov.uk

Background Papers:

None.

1. Cabinet Member Decision

- 1.1 The report attached as an **Appendix** to this report was considered by the Cabinet on 3 July 2015.
- 1.2 The decision of the Cabinet is set out below:

Decision - Former Birkdale Library Liverpool Road Southport

“The Cabinet considered the report of the Director of Built Environment which provided details of the tenders received as a result of the marketing exercise for the sale of the Council’s freehold interest in the former Birkdale Library Liverpool Road, Birkdale.

Decision Made:

That:

- (1) subject to the receipt of planning permission, approval be given to the Council disposing of its freehold interest in the former Birkdale Library to the tenderer submitting the most advantageous bid, as detailed in Appendix 1, on the terms set out in the report; and
- (2) the Head of Regulation and Compliance be authorised to prepare the necessary legal documentation on the terms and conditions detailed in the tender documents, by way of a Building Lease followed by Conveyance of the freehold interest, or an appropriate alternative means of Transfer, if required.

Reasons for Decision:

Birkdale Library was declared surplus to operational requirements and the premises closed in December 2013. The premises were included in the Council’s Asset Disposal Programme for 2015/16. Disposal would bring the premises into productive use and relieve the Council of an ongoing liability. The premises were registered as an Asset of Community Value so the obligations contained in the Localism Act legislation need to be followed by the Council.

Alternative Options Considered and Rejected:

The Council could retain the premises and continue to incur the holding costs.”

2. Details of the Call-In of the Cabinet Decision

- 2.1 The following Members of the Council (who are not Members of the Cabinet) signed the requisition for the **call-in**, in accordance with the provisions of the Overview and Scrutiny Committee Procedure Rules in Part 4 of the Council's Constitution.

Councillor Hands
Councillor Shaw
Councillor Brodie-Browne

- 2.2 In the requisition for the call-in, the following reasons were given:-

1. We request the Overview and Scrutiny Committee (Regulation, Compliance and Corporate Services) to refer this item back to the Cabinet for further consideration.
2. The Cabinet failed to take into account that this was an opportunity for a community facility to be run by the community at no cost to the Council.
3. The report from the officers did not fully take into consideration the bid from Friends of Birkdale Library
4. This building could be the community centre for this area. There are no other facilities within the area that would be as easily accessible as this building for the community and the five local primary schools.
5. The Council in past has always encouraged the community to be involved in their area and this building would provide such a facility.

- 2.3 The Constitution sets out the following requirements with respect to call-in:

"All requisitions for call-in shall refer to a specific decision and provide a reason. A decision may only be the subject of one call-in. A decision may only be called-in for the following purposes:

- a) to seek more understanding of the decision and its implications;
- b) to question the soundness of the decision based on facts taken or not taken into account;
- c) to identify the need for Council policies to guide decisions;
- d) to make recommendations to the Cabinet and/or Council;
- e) to question whether the decision conforms with agreed policies."

- 2.4 Members are asked to consider the requisition cited above (paragraph 2.2) and determine which ground or grounds apply to the requisitions, if any. If the Committee determines that the requisitions fall within one of the grounds, then it can proceed to consider whether it is concerned with the decision.

- 2.5 The Secretary of State in his guidance recommends that the Overview and Scrutiny Committees should only use the power to refer matters to the full Council if they consider that the decision is contrary to the

policy framework or contrary or not wholly in accordance with the budget.