

# Winter Gardens Lease - Call In of an Individual Cabinet Member Decision

**Overview & Scrutiny Panel** 19 April 2022

<b>Report Author</b>	Senior Democratic Services Officer
<b>Portfolio Holder</b>	Councillor Pugh, Deputy Leader and Cabinet Member for Economic Development
<b>Status</b>	For Recommendation
<b>Classification:</b>	Unrestricted
<b>Key Decision</b>	No
<b>Ward:</b>	Margate Central

## Executive Summary:

The Panel has called in an individual Cabinet Member decision made by the Deputy Leader and Cabinet Member for Economic Development regarding the Winter Gardens Lease. This decision is attached as Annex 1 to this covering report. Members are being asked to review the decision and agree whether to make recommendations or take no further action.

## Recommendation(s):

The Panel is being asked to consider the Cabinet Member decision and related report and decide whether there is or there isn't any further action that is required on this matter.

## Corporate Implications

### Financial and Value for Money

The financial implications of the original decision are set out in the attached report, as Annex 2 to the committee report.

### Legal

The legal implications of the original decision are set out in the attached report. Any alternative courses of action would need to have the legal implications considered and presented to Cabinet for their consideration.

The Overview and Scrutiny Procedure Rules in the Constitution state that call-in should only be used in exceptional circumstances, for example, where members of the Overview & Scrutiny Panel have evidence which suggests that the Deputy Leader and Cabinet Member for Economic Development did not take the decision in accordance with the principles set out in Article 13 of the Constitution (Decision Making).

## **Risk Management**

The risks relating to the original decision are set out in the attached report, as Annex 2 to the committee report.

## **Corporate**

The corporate implications of the original decision are set out in the attached report. Any alternative courses of action would need to have the corporate implications considered and presented to the Deputy Leader and Cabinet Member for Economic Development for their consideration.

## **Equality Act 2010 & Public Sector Equality Duty**

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

This report relates to the following aim of the equality duty: -  
(Delete as appropriate)

- To eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act.
- To advance equality of opportunity between people who share a protected characteristic and people who do not share it
- To foster good relations between people who share a protected characteristic and people who do not share it.

The equalities implications of the original decision are set out in the attached report. Any alternative courses of action would need to have the equalities implications considered and presented to the Deputy Leader and Cabinet Member for Economic Development for their consideration.

## **Corporate Priorities**

This report relates to the following corporate priorities: -

- Growth
- Environment
- Communities

## **1.0 Introduction and Background**

- 1.1 The Deputy Leader and Cabinet Member for Economic Development made a decision regarding the Winter Gardens Lease on 9 March 2022 which was subsequently published on 31 March 2022.
- 1.2 The Individual Cabinet Member decision was called in by four members of the Overview and Scrutiny Panel on 6 April 2022 and later confirmed as a valid call-in on 13 April 2022.

## **2.0 The Current Situation**

- 2.1 In calling in an Executive decision made by either Cabinet or an Individual Cabinet Member the Panel ought to provide the reasons for the call-in. The call-in request ought to cite one or more of the seven principles of decision making which are in Article 13 Part 2 of the Council Constitution.
- 2.2 The seven principles are as follows:
  - (a) the presumption in favour of openness and transparency;(b) the need for due consultation;
  - (c) the need to take account of relevant professional advice from appropriate staff;
  - (d) the need for clarity of aims and desired outcomes;
  - (e) the need to identify the range of options considered;
  - (f) the need to give reasons and explanations for a decision;
  - (g) the need to ensure that all necessary requirements of legality and confidence are observed.
- 2.3 The request cited that the following grounds:
  - (a) The presumption in favour of openness and transparency;
  - (f) The need to give reasons and explanations for a decision.
- 2.4 The call-in request further explained that there is no evidence that TDC has considered the additional costs Your Leisure will incur as a result of the surrender of the lease for the Winter Gardens or what attempts have been made to quantify them. Therefore, the report did not give any opportunity for members to judge whether this request is reasonable or appropriate.

## **3.0 Options**

- 3.1 After considering the material before the Panel and the views arising from the discussion, Members could opt to make recommendations for consideration by the Deputy Leader and Cabinet Member for Economic Development, or;
- 3.2 Members could opt to take no further action, in which case the original decision takes immediate effect.
- 3.3 If referred back to the Deputy Leader and Cabinet Member for Economic Development, he will reconsider within a further 15 working days from the date of the meeting, and may amend the decision or not, before adopting a final decision.

## **4.0 Next Steps**

- 4.1 If the Panel makes recommendations, these would be referred to the Deputy Leader and Cabinet Member for Economic Development, who would then consider them and either accept or reject the recommendations as set out in section 3.
- 4.2 If the Panel decides to take no further action, then the decision takes immediate effect.

Contact Officer: *(Charles Hungwe, Senior Democratic Services Officer)*  
Reporting to: *(Nick Hughes, Committee Services Manager)*

### **Annex List**

Annex 1: Winter Gardens Lease Decision Notice  
Annex 2: Winter Gardens Lease Decision Notice supporting report

### **Background Papers**

None

### **Corporate Consultation**

**Finance:** *Chris Blundell (Director of Finance)*

**Legal:** *(Estelle Culligan, Director of Law and Democracy & Acting Monitoring Officer)*