

To: All Members and Substitute Members of  
the Overview & Scrutiny Committee -  
Value for Money & Customer Service  
(Other Members for Information)

When calling please ask for:  
Kimberly Soane, Democratic Services Officer

**Policy and Governance**

E-mail: [committees@waverley.gov.uk](mailto:committees@waverley.gov.uk)

Direct line: 01483 523258

Date: 1 September 2020

**Membership of the Overview & Scrutiny Committee -**

**Value for Money & Customer Service**

Cllr Peter Martin (Chairman)

Cllr Joan Heagin (Vice Chairman)

Cllr Roger Blishen

Cllr Jerome Davidson

Cllr Jerry Hyman

Cllr Peter Marriott

Cllr Stephen Mulliner

Cllr Peter Nicholson

Cllr Julia Potts

**Substitutes**

Cllr Richard Cole

Cllr Simon Dear

Cllr John Gray

Cllr Kika Mirylees

**Members who are unable to attend this meeting must submit apologies by the end of Wednesday, 2 September 2020 to enable a substitute to be arranged.**

Dear Councillor

A meeting of the OVERVIEW & SCRUTINY COMMITTEE - VALUE FOR MONEY & CUSTOMER SERVICE will be held as follows:

DATE: WEDNESDAY, 9 SEPTEMBER 2020

TIME: 6.00 PM

PLACE: ZOOM MEETING

The Agenda for the Meeting is set out below.

The meeting can be viewed remotely in accordance with the provisions of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, via the Council's YouTube page.

Yours sincerely

ROBIN TAYLOR  
Head of Policy and Governance

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This meeting will be webcast and can be viewed by visiting [www.waverley.gov.uk/webcast](http://www.waverley.gov.uk/webcast)

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### **Waverley Corporate Strategy 2019 - 2023**

Waverley Borough Council is an authority which promotes and sustains:

- open, democratic and participative governance
  - a financially sound Waverley, with infrastructure and services fit for the future
  - the value and worth of all residents, regardless of income, wealth, age, disability, race, religion, gender or sexual orientation
  - high quality public services accessible for all, including sports, leisure, arts, culture and open spaces
  - a thriving local economy, supporting local businesses and employment
  - housing to buy and to rent, for those at all income levels
  - responsible planning and development, supporting place-shaping and local engagement in planning policy
  - a sense of responsibility for our environment, promoting biodiversity and protecting our planet.
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### **Good scrutiny:**

- is an independent, Member-led function working towards the delivery of the Council's priorities and plays an integral part in shaping and improving the delivery of services in the Borough;
- provides a critical friend challenge to the Executive to help support, prompt reflection and influence how public services are delivered;
- is led by 'independent minded governors' who take ownership of the scrutiny process; and,

- amplifies the voices and concerns of the public and acts as a key mechanism connecting the public to the democratic process.
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## **NOTES FOR MEMBERS**

Members are reminded that contact officers are shown at the end of each report and members are welcome to raise questions etc in advance of the meeting with the appropriate officer.

### **AGENDA**

#### 1. **APOLOGIES FOR ABSENCE AND SUBSTITUTES**

To receive apologies for absence and note any substitutions.

Members who are unable to attend this meeting must submit apologies by 5pm on Wednesday 2 September 2020 to enable a substitute to be arranged, if applicable.

#### 2. **DECLARATIONS OF INTERESTS**

To receive Members' declarations of interests in relation to any items included on the agenda for this meeting, in accordance with Waverley's Code of Local Government Conduct.

### **CALL-IN ITEM**

The following item was considered by the Executive at its meeting on 8 July 2020. Cllrs Julia Potts, Stephen Mulliner, John Gray and Simon Dear, have since called-in the Executive's decision for scrutiny.

#### 3. **BROADWATER PARK GOLF COURSE - OPTIONS APPRAISAL: CALL IN** (Pages 5 - 42)

On 8 July 2020 the Executive approved the recommendation set out in the report "Property Matter – Broadwater Golf Course Options Appraisal". The report (attached at Annexe 1, plus Exempt annexe to that report) set out a proposal to use the Investment Advisory Board Reserve to fund an Options Appraisal on the site at a cost of £50,000, and legal fees of £20,000.

On 14 July 2020, a call in of that decision was received from Cllrs Julia Potts, Stephen Mulliner, John Gray and Simon Dear, of the Value for Money & Customer Services Overview and Scrutiny Committee. Their reasons for calling in the decision are detailed in the call in form (Annexe 2).

### **Recommendation**

That, having considered the call in, the Committee agrees one to the following options:

EITHER:

1. To resolve not to refer the decision back to the Executive;

OR:

2. To resolve not to refer the decision back to the Executive but nevertheless to make such recommendations to the Executive as it sees fit;

OR:

3. To resolve to refer the decision to the Executive for reconsideration with a written explanation setting out the nature of the committee's concerns;

OR:

4. To resolve to refer the matter to Full Council if it is felt that the decision is contrary to the Council's Budget and Policy Framework.

4. EXCLUSION OF PRESS AND PUBLIC

To consider the following recommendation on the motion of the Chairman:

**Recommendation**

That pursuant to Procedure Rule 20 and in accordance with Section 100A(4) of the Local government Act 1972, the press and public be excluded from the meeting during consideration of the following items on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the items, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified in the appropriate paragraph(s) of the revised Part 1 of Schedule 12A to the Act (to be specified at the meeting).

**Officer contacts:**

**Yasmine Makin, Scrutiny Policy Officer**

**Tel. 01483 523078 or email: [yasmine.makin@waverley.gov.uk](mailto:yasmine.makin@waverley.gov.uk)**

**Kimberly Soane, Democratic Services Officer**

**Tel. 01483 523258 or email: [committees@waverley.gov.uk](mailto:committees@waverley.gov.uk)**

**WAVERLEY BOROUGH COUNCIL**

**VALUE FOR MONEY & CUSTOMER SERVICES**  
**OVERVIEW AND SCRUTINY COMMITTEE**  
**9 SEPTEMBER 2020**

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**Title:**

**Broadwater Golf Course – Options Appraisal: Call In**

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**Portfolio Holder:** Cllr Mark Merryweather, Portfolio Holder for Finance, Assets and Commercial

**Head of Service:** Peter Vickers, Head of Finance and Property

**Key decision:** No

**Access:** Part Exempt

**Note pursuant to Section 100B(5) of the Local Government Act 1972**

An Annexe attached to this report contains exempt information by virtue of which the public is likely to be excluded during the item to which the report relates, as specified in Paragraph 3 of Part I of Schedule 12A to the Local Government Act 1972, namely:

*Information relating to the financial or business affairs of any particular person (including the authority holding that information).*

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**1. Purpose and summary**

- 1.1 On 8 July 2020 the Executive approved the recommendation set out in the report “Property Matter – Broadwater Golf Course Options Appraisal”. The report (attached at Annexe 1, plus Exempt annexe to that report) set out a proposal to use the Investment Advisory Board Reserve to fund an Options Appraisal on the site at a cost of £50,000, and legal fees of £20,000.
- 1.2 On 14 July 2020, a call in of that decision was received from Cllrs Julia Potts, Stephen Mulliner, John Gray and Simon Dear, of the Value for Money & Customer Services Overview and Scrutiny Committee. Their reasons for calling in the decision are detailed in the call in form (Annexe 2).
- 1.3 Upon receiving the call in from the requisite number of committee members, the Monitoring Officer confirmed that paragraphs 1a and 1b of the call in form related directly to recent Executive decisions that could be called in under the O&S call in arrangements.
- 1.4 Paragraph 1c on the other hand referred to an Executive decision made in December 2018 and to a subsequent decision taken by an Officer under the Scheme of Delegation. Whilst those decisions were considered by members calling this matter to be contextual information and relevant to the recent Executive decisions that could be called in, it is important to note that neither can,

in themselves, be called in or scrutinised under the O&S call in arrangements.

## **2. Recommendation**

That, having considered the call in, the Committee agrees one to the following options:

EITHER:

1. To resolve not to refer the decision back to the Executive;

OR:

2. To resolve not to refer the decision back to the Executive but nevertheless to make such recommendations to the Executive as it sees fit;

OR:

3. To resolve to refer the decision to the Executive for reconsideration with a written explanation setting out the nature of the committee's concerns;

OR:

4. To resolve to refer the matter to Full Council if it is felt that the decision is contrary to the Council's Budget and Policy Framework.

## **3. Reason for the recommendation**

In accordance with the constitutional provisions relating to call in (Part 4 – Overview & Scrutiny Procedure Rules) this report presents a call-in relating to the Executive report "Property Matter – Broadwater Golf Course Options Appraisal", which was approved on 8 July 2020. The Committee is invited to consider the call in and decide what action it wishes to take.

## **4. Background**

4.1 Not required.

## **5. Relationship to the Corporate Strategy and Service Plan**

5.1 The call in process is a statutory role of the Overview and Scrutiny function and an important part of holding the Executive to account. It supports the corporate priority of 'open, transparent and participative governance'.

## **6. Implications of decision**

### **6.1 Resource (Finance, procurement, staffing, IT)**

There are no financial implications arising as a direct result of this report. The financial implications of the original decision are set out in the Executive report (Annexe 1).

### **6.2 Risk management**

N/A

### **6.3 Legal**

The legal implications of the Executive decision are set out in the report at Annexe 1.

#### **6.4 Equality, diversity and inclusion**

There are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

#### **6.5 Climate emergency declaration**

There are no climate emergency implications arising as a direct result of this report. The climate emergency implications of the original decision are set out in the Executive report (Annexe 1).

### **7. Consultation and engagement**

7.1 N/A

### **8. Other options considered**

8.1 None. The arrangements for a call in meeting of Overview and Scrutiny are set out in the Constitution (Part 4 – Overview and Scrutiny Procedure Rules).

### **9. Governance journey**

9.1 This may end with the Value for Money & Customer Services Overview and Scrutiny Committee, be referred back to the Executive, or be referred to Full Council.

#### **Annexes:**

Annexe 1 – Executive report “Property Matter – Broadwater Golf Course Options Appraisal” 8 July 2020 and Exempt annexe

Annexe 2 – Call in form

Annexe 3 – Response by officers

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#### **Background Papers**

There are no background papers, as defined by Section 100D(5) of the Local Government Act 1972).

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#### **CONTACT OFFICER:**

Name: Robin Taylor  
Position: Head of Policy & Governance  
Telephone: 0148 3523108  
Email: robin.taylor@waverley.gov.uk

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# **WAVERLEY BOROUGH COUNCIL**

## **EXECUTIVE**

**8 JULY 2020**

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**Title:**

**Property Matter - Broadwater Golf Course**  
**Options Appraisal**

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**Portfolio Holder:** Cllr Mark Merryweather, Portfolio Holder for Finance

**Head of Service:** Peter Vickers, Head of Finance and Property

**Key decision:** No

**Access:** Part Exempt

**Note pursuant to Section 100B(5) of the Local Government Act 1972**

An Annexe to this report contains exempt information by virtue of which the public is likely to be excluded during the item to which the report relates, as specified in Paragraph 3 of Part I of Schedule 12A to the Local Government Act 1972, namely:

Information relating to the financial or business affairs of any particular person (including the authority holding that information)

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**1. Purpose and summary**

- 1.1 This report seeks approval for the use of up to £50,000 from the Investment Advisory Board Reserve to commission the Council's external property advisors, Montagu Evans, to undertake a detailed options appraisal of the Broadwater Golf Course site. A draw down of the reserve is also sought to cover legal fees which were incurred in obtaining the site back for the Council of some £20,000.

**2. Recommendation**

It is recommended that the Executive approve the use of the Investment Advisory Board Reserve to fund the options appraisal on the site of £50,000 and the legal fees incurred of £20,000

**3. Reason for the recommendation**

- 3.1 The Council's Property Investment Strategy documents the Council's proposals in relation to Value for Money, the need for the Council to maximise the financial benefit from its assets, and to consider the development opportunities for those assets where appropriate. In furtherance of this the Council has written to Broadwater Golf Club Limited to inform the company of the Council's decision not to renew its lease. The Council has sought an initial analysis of options for the

site from the Council's retained external property advisers Montagu Evans. This is attached at Exempt Annexe 1.

In order to demonstrate the Council is actively pursuing the development opportunity of the site, work needs to continue to the next phase of the options appraisal. This further work will require funding in the region of £50,000.

- 3.2 The Property Investment Advisory Board, at its meeting on 2 June 2020, discussed the importance of engaging expert and independent advice in assessing the development potential of the site and, therefore, support and recommend to the Executive that this funding be granted.

#### **4. Relationship to the Corporate Strategy and Service Plan**

- 4.1 A Council delivered development on this site would support the Corporate Strategy's vision to sustain 'high quality public services accessible for all, including sports, leisure, arts, culture and open spaces'.

#### **5. Implications of decision**

##### **5.1 Resource (Finance, procurement, staffing, IT)**

At this stage there are no other resource implications.

##### **5.2 Risk management**

Risk will be assessed in line with the Council's Risk Management Framework and Risk Appetite Statement and in accordance with the Property Investment Strategy's requirements with regard to risk. This includes ensuring comprehensive due diligence is undertaken when assessing any proposal. The use of external agents to give expert and independent opinion is part of this due diligence.

##### **5.3 Legal**

Waverley Borough Council has written to Broadwater Golf Club Limited to inform the company of the Council's decision to not renew the lease at the Broadwater Golf Club site. This has been done by way of formal notice on the Club under the Landlord and Tenant Act 1954. The Council has sought external legal advice in relation to the process and further advice may be required.

##### **5.4 Equality, diversity and inclusion**

There are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

##### **5.5 Climate emergency declaration**

The Property Investment Strategy has a commitment to honouring the Council's Climate Change Emergency.

## **6. Consultation and engagement**

- 6.1 This report is brought to the Executive following recommendation of the Property Investment Advisory Board at its meeting on 2 June 2020.

## **7. Other options considered**

- 7.1 The governance and due diligence requirements under the Property Investment Strategy require the seeking of external advice in assessing development options.

## **8. Governance journey**

- 8.1 The Property Investment Advisory Board, at its meeting on 2 June 2020, support and recommend to the Executive that this funding be granted.

### **Annexes:**

Exempt Annexe 1 – Alternative Use Appraisal, Montagu Evans

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### **Background Papers**

There are no background papers, as defined by Section 100D(5) of the Local Government Act 1972).

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### **CONTACT OFFICER:**

Name: Vicki Basley  
Position: Corporate Asset Manager  
Telephone: 01483 523250  
Email: victoria.basley@waverley.gov.uk

Agreed and signed off by:  
Legal Services: 25/6/2020  
Head of Finance: 26/6/2020  
Strategic Director: date  
Portfolio Holder: 23/06/2020

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of the Local Government Act 1972.

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**To Mr Robin Taylor**, Head of Policy and Governance, Waverley Borough Council

From Cllrs. Julia Potts, Stephen Mulliner, John Gray, Simon Dear, Members or Substitute Members of the Overview & Scrutiny Committee – Value for Money & Customer Service (“VfM O&S Committee”)

**Subject: Call in of an Executive Decision taken on 8<sup>th</sup> July 2020**

**1) What decision is being called in?**

- (a) The decision to approve the use of up to £50,000 from the Investment Advisory Board Reserve to commission the Council’s external property advisors, Montagu Evans, to undertake a detailed options appraisal of the Broadwater Golf Course site.
- (b) the decision to approve a further draw down of the reserve to cover legal fees of £20,000 which were (or are to be) incurred in obtaining the site back for the Council.
- (c) the inadequate explanation and apparent failure of process in relation to how the decision by the Executive in December 2018 to grant a new lease to Broadwater Golf Club was overturned which then led to the decisions to approve the requested expenditure. (Reason: to ensure that the VfM O&S Committee can examine all the facts from the decision to grant the new lease to the current situation where there is a potential legal issue and further expenditure which could breach the Constitution and process).

**2) Why is the decision being called in?**

We call these decisions in because:

- The decision to undertake the appraisal conflicts with the decision made by the WBC Executive at its meeting on 4<sup>th</sup> December 2018 to “Proceed with due legal process to grant a new lease to the Golf Club on the terms proposed in Exempt Annex 1”. A decision appears to have been made to change WBC’s position from supporting the granting of a new lease to opposing it. However, the intention to decide to overturn the 2018 Executive decision was not made public, which prevented prior scrutiny and questioning, and the reasons for doing so have not been disclosed. It is therefore not possible to be confident of the soundness of the decision to overturn and of the decisions to spend £50,000 on the appraisal and £20,000 on legal fees.
- The failure to disclose publicly the intention to decide to overturn the 2018 Executive decision conflicts with parts of Article 13.1 of Part 2 of the WBC Constitution (Principles of decision-making), namely:
  - (c) “a presumption in favour of openness”
  - (d) “clarity of aims and desired outcomes”
  - (f) “that decisions are only taken after the proper consideration of written reports which comply with the principles of the Access to Information legislation”.
  - (g) “that relevant matters are taken fully into account in decision-making”
- The failure to disclose the reasons for the decision to overturn the 2018 Executive decision is in conflict with Article 13.1(j) of Part 2 of the WBC Constitution which requires “that decisions are recorded by officers and published together with the reasons and relevant background papers”.

- The reports published as part of the agenda for the Executive meeting held on 8 July 2020 that relate to the decisions contain insufficient information to make a sound decision in accordance with Article 13.1(f) and (g) of Part 2 of the WBC Constitution.
- The proposed level of expenditure on the appraisal has not been adequately justified and so may conflict with Article 13.1(a) of Part 2 of the WBC Constitution (that decisions should display “proportionality”).
- The proposed level of expenditure on legal fees has not been adequately justified and so may conflict with Article 13.1(a) of Part 2 of the WBC Constitution (that decisions should display “proportionality”).
- The decisions emanate from a decision to refuse a new lease stated by the Portfolio Holder for Finance at the Executive meeting held on 8 July 2020 to have been taken by himself which thereby conflicted with Article 13.1(i)(iv) of Part 2 of the WBC Constitution in that it failed to comply with section J11 of the Scheme of Delegation which reserves to the Executive the grant or renewal of leases in excess of 25 years and, by implication, any decision to rescind a decision to grant such a lease.
- The decisions involve the making of a Supplementary Estimate but were not accompanied by a report from the Section 151 Officer and thereby failed to comply with paragraphs 4.27 to 4.30 of the Finance Regulations.
- The failures to comply with Article 13.1 as listed above and with the Finance Regulations give rise to grave concerns about the propriety and soundness of the process followed in deciding to refuse a new lease and about the wisdom and financial soundness of that decision and of the decisions to spend £50,000 on an appraisal and £20,000 on legal fees.
- There has been a lack of consultation and engagement with the local ward members, local residents and the parties that currently occupy Broadwater Park. This displays a lack of transparency and openness and conflicts with the Waverley Corporate Plan.
- The VfM O&S Committee needs to understand why it is believed by the Executive that there are other uses of the site that will offer better value for money than the fully developed scheme proposed by Broadwater Golf Club and supported for over four years and until very recently by WBC.
- The VfM O&S Committee needs to understand how the Executive plan to have a sufficiently detailed redevelopment plan in place to defend proceedings if Broadwater Golf Club challenge the notice under s.25 Landlord & Tenant Act 1954 by applying for a new lease and secure a court hearing within 18 months.

### **3) Who is calling in the decision?**

- a. Cllr Julia Potts
- b. Cllr Stephen Mulliner
- c. Cllr John Gray
- d. Cllr Simon Dear

### **4) What information do you want to be available at the call-in meeting?**

The below is an indicative list, to be agreed following consultation with the Head of Policy & Governance, Robin Taylor.

- Portfolio Holder to be present and to make a presentation to the meeting



- Head of Policy & Governance to present on the processes followed, especially the way in which the Executive decision of December 2018 has not been implemented
- Borough Solicitor, Representative of DAC Beechcroft to present on the legal matters and to explain all correspondence in relation to this matter to justify the spending of £20,000 on legal fees to date and what is expected going forward
- Counsel's opinion on the issue of the Section 25 Notice, including any advice (both internal and external (and the cost of such external advice)) of successfully defending an application by the Tenant for a new lease
- The Tenant to appear and detail process and timeline
- The Tenant's Surveyor and other associated Consultants
- The Tenant's lawyers and any other relevant legal advisors to present in detail the position of the Tenant

Please note that all documentation, including emails, minutes of meetings, options considered, advice received, summaries of any consultation that has taken place and any documentation in which a decision is recorded are to state the date on which the relevant document was created. The VfM O&S Committee also requires copies of all documents which seek to justify all relevant decisions made by Waverley Borough Council Officers and Councillors.

**Dated July 15<sup>th</sup> 2020**

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