

This matter is being dealt with by:

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**Private and Confidential**

**To be opened by addressee only**

Cllr Dave Shaw

Independents Alliance

26 May 2023

Dear Councillor Shaw,

I refer to your letter dated 18<sup>th</sup> May, sent at 18.58pm on 18<sup>th</sup> May after I had finished work for the day. As you correctly set out in your letter the deadline for submission of a call-in request was 12 noon on Friday 19<sup>th</sup> May.

Your letter indicated your intention to initiate the pre-call-in procedure and of your intention to proceed with a call-in should the outcome of the pre-call in process leave your concerns unresolved. However, the covering email from your group researcher, indicated that you and the other signatories wished to “formally call in the Delegated Decision Published on 12 May (Decision 309) relating to the Sale of Land at Top Wighay”, and asked me to “accept this as a formal notice of the intentions of 5 Independent Alliance councillors”.

Your initial request was invalid as it was signed by only 5 councillors when the requirement for a valid call-in is for 7 councillors. Following this being drawn to the attention of your group researcher, your request was subsequently amended on the morning of Friday 19<sup>th</sup> May to include the requisite number of 7 signatories. The revised request was received shortly before the call-in deadline allowing very little time to undertake the pre-call-in procedure.

I am not able to accept your request as a valid call-in of the decision published on the Sale of Land at Top Wighay on Friday 12<sup>th</sup> May in the Council’s delegated decision log. The request fails to meet the grounds for a call-in or to follow the correct procedure as set out below:

1. The call-in procedure should be used only in exceptional circumstances (see paragraph 55 of the Overview and Scrutiny procedure rules) to revisit an Executive decision due to a perceived procedural error. The call-in request does not provide evidence of any such error.
2. The call-in procedure states that members considering submitting a call-in notice are required to discuss the nature of their concerns with the relevant decision maker and the Leader of the Council (or their nominee). Your letter was sent direct to me. I am not aware and nor does your request set out, when or if such discussions with those individuals have taken place.
3. Call-in may only be used “where members have evidence that the relevant decision maker did not take a relevant decision in accordance with the decision-making principles set out in Section 1 of the Constitution”. Your letter does not refer to those

decision-making principles, which of them you believe may have not been followed nor provide any evidence on which to base that belief.

4. The call-in notice does not specify the aspects of the decision in relation to which the members seek to challenge, which is required to enable those preparing for any validated call-in to understand what the focus of the call-in will be and to prepare to address those issues specifically.

In your letter you raise the issue of decision makers needing to have access to the relevant information when making a key decision. It is my understanding that the Cabinet Member, as the person making the decision, had access to the information necessary to discharge this key decision. This took the form of a report and exempt appendix containing commercially sensitive information in relation to details of the sale of the land. In a Cabinet system of governance this would not require circulation of information to a wider cohort of members as suggested in your letter as would have been the case if making this decision under the Committee system. In line with the Council's normal approach the local member has received a briefing on this matter.

The Council's Forward Plan identifies that an update report on the Office and Building Rationalisation Programme, including reference to the building of Council offices on the Top Wighay site, will be considered by Cabinet no earlier than its meeting on 22<sup>nd</sup> June. Officers will be happy to provide you and your colleagues with a further briefing on this at the appropriate point in time. This may assist you and your group in understanding the wider context of the programme, its objectives, timescales and funding.

As set out in the Council's Constitution, I have discussed your request for a call-in with the Chairman of the Overview Committee. I have also spoken to the Chief Executive, the Corporate Director for Place and the Section 151 Officer and had regard to their advice. I have also discussed the referral with the Statutory Scrutiny Officer.

As discussed at Overview Committee last week, the Council and members are in a learning phase with regard to how it operates its Scrutiny function and I would therefore be happy to discuss the above decision further if that would be helpful.

Yours sincerely



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