

# ENVIRONMENT AND COMMUNITY SAFETY OVERVIEW AND SCRUTINY COMMITTEE

## Agenda Item 24

Brighton & Hove City Council

<b>Subject:</b>	<b>Request for Call-in of the 24 September 2009 Environment CMM Decision on Cityparks Downland Management</b>		
<b>Date of Meeting:</b>	<b>6 October 2009</b>		
<b>Report of:</b>	<b>The Director of Strategy and Governance</b>		
<b>Contact Officer:</b>	Name: Tom Hook	Tel: 29-1110	
	E-mail: Tom.hook@brighton-hove.gov.uk		
<b>Wards Affected:</b>	<b>East Brighton; Hangleton &amp; Knoll; Hollingdean &amp; Stanmer; Moulsecoomb &amp; Bevendean, North Portslade; Patcham; Rottingdean Coastal; Withdean and Woodingdean</b>		

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 To determine whether to ask the Environment Cabinet Member to reconsider the decision in relation to the proposed plan to increase the grazed area of council land managed by Cityparks which was taken at the 24 September 2009 Environment Cabinet Member meeting.
- 1.2 The following information is contained in the appendices to this report:
  - (a) **Appendix 1** to the report contains the Call-In request;
  - (b) **Appendices 2 and 3** to the report contains a letter from wildlife groups and officer briefing considered at 22 June Environment and Community Safety Overview and Scrutiny Committee (ECSOSC) meeting
  - (c) **Appendix 4** to the report contains the extract from the 22 June ECSOSC meeting
  - (d) **Appendix 5** to the report contains the letter from ECSOSC Chairman and further comments from Councillor Sven Rufus to 30 July Environment CMM meeting
  - (e) **Appendix 6** contains an extract from the minutes of the 30 July CMM meeting

(f) **Appendix 7** to the report contains the report from the Director of Environment which was agreed at the 24 September Environment CMM meeting and **Appendix 8** contains the appendix to the CMM report.

(g) **Appendix 9** to the report contains an extract from the draft minutes from the 24 September Environment CMM meeting

(h) **Appendix 10** to the report contains the official record of the Environment CMM decision on this matter

(h) **Appendix 11** to the report contains further information on this issue supplied by the Director of Environment.

## 2. **RECOMMENDATIONS:**

- 2.1 (a) To note the letter from wildlife groups, officer briefing and extract from the minutes of 22 June ECSOSC
- (b) To note the subsequent letter from ECSOSC Chairman and additional information from Councillor Rufus to the 30 July Environment CMM and extract from the minutes
- (c) To note the decision taken by 24 September Environment CMM in relation to Cityparks Downland Management
- (d) To note the subsequent Call-In request
- (e) To note the additional information supplied by the Director of Environment
- 2.2 Having regard to the grounds for Call-In, to determine whether to refer the decision back to the Environment CMM for reconsideration.

## 3. **BACKGROUND INFORMATION**

- 3.1 On 22 June a letter from wildlife groups and officer briefing were considered by ECSOSC. Following discussion it was resolved that the Chairman write to Environment CMM on behalf of the Committee with a request urgently to review the downland mowing policy on a site by site basis. **(Appendices 2-4)**
- 3.2 On behalf of ECSOSC, Councillor Rufus provided additional information and presented the letter to 30 July Environment CMM where the letter was noted and Councillors Morgan and Rufus were offered a meeting with the Assistant Director, City Services. **(Appendices 5, 6)**
- 3.3 At 24 September Environment CMM agreed a report on the proposed plan to increase the grazed area of council land managed by Cityparks.

This report is reprinted in **Appendices 7,8**. An extract from the draft minutes is printed as **Appendix 9** to this report, and the official record of the CMM decision is printed as **Appendix 10**.

- 3.4 Further information relating to this matter has been provided by the Director of Environment. This is contained in **Appendix 11** to this report.
- 3.5 On 24 September 2009, Councillor Gill Mitchell wrote to the Chief Executive, requesting that the CMM decision be called in. The Call-In request forms **Appendix 1** to this report.
- 3.6 The Chief Executive accepted the Call-In request on 25 September 2009 and asked for a Call-in Meeting of the Environment and Community Safety Overview & Scrutiny Committee to be called within seven working days.
- 3.7 Call-In is the process by which Overview & Scrutiny Committees can recommend that a decision made (in connection with Executive functions) but not yet implemented be reconsidered by the body which originally took the decision.
- 3.8 Call-In should only be used in exceptional circumstances, for instance where there is evidence that an important decision was not taken in accordance with the Council's constitution.
- 3.9 An Overview & Scrutiny Committee examining a decision which has been Called-In does not have the option of substituting its own decision for that of the original decision. The Overview & Scrutiny Committee may only determine whether or not to refer the matter back to the original decision making body for reconsideration.
- 3.10 In determining whether to refer a decision back to its originating body for reconsideration, the Overview & Scrutiny Committee should have regard to the criteria for Scrutiny reviews, as set out in the Council's constitution (Part 6.1: paragraph 4.2). In addition, the Committee should take into account:
  - Any further information which may have become available since the decision was made
  - The implications of any delay; and
  - Whether reconsideration is likely to result in a different decision.
- 3.11 More information about the Call-In process is contained in the Council's constitution (Part 6.1: paragraph 16).

#### 4. CONSULTATION

4.1 No formal consultation has been undertaken in regard to this report.

#### 5. FINANCIAL & OTHER IMPLICATIONS:

##### Financial Implications:

5.1 The financial implications remain the same as those detailed in the initial report to Environment CMM (24.09.09).

##### Legal Implications:

5.2 If, having scrutinised the Environment Cabinet Member's decision, ECSOSC is still concerned about, it may refer the decision back to the Cabinet Member for reconsideration, setting out the nature of its concerns. Were this to happen, the Cabinet Member is required to reconsider, either at his next programmed Cabinet Member meeting or at a special meeting called for the purpose, whether to amend the decision or not before reaching a final decision and implementing it.

*Lawyer consulted: Oliver Dixon Date: 1 October 2009*

##### Equalities Implications:

5.3 There are no direct equalities implications to this report, although the 24 September 2009 CMM decision was made with regard to the equalities implications contained within the original report of the Director of Environment (see **appendix 7**).

##### Sustainability Implications:

5.4 There are no direct sustainability implications to this report, although the 24 September 2009 CMM decision was made with regard to the sustainability implications contained within the original report of the Director of Environment (see **appendix 7**).

##### Crime & Disorder Implications:

5.5 There are no direct crime & disorder implications to this report, although the 24 September 2009 CMM decision was made with regard to the crime & disorder implications contained within the original report of the Director of Environment (see **appendix 7**).

##### Risk and Opportunity Management Implications:

5.6 The Call-In procedure seeks to provide a system via which important decisions can be re-examined in a timely fashion, so as to ensure that the Council is not unnecessarily exposed to risk associated with taking decisions contrary to established procedure, whilst also minimising risk inherent in unduly delaying the decision making process.

Corporate / Citywide Implications:

- 5.7 Chalk grassland supports up to 40 species of plant in one square metre. It is internationally rare and local authorities are expected to prioritise its management as part of their duty to further biodiversity.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. The request for Call-In;
2. Letter from wildlife groups and officer briefing considered at 22 June Environment and Community Safety Overview and Scrutiny Committee (ECSOSC) meeting;
3. Officer briefing considered at 22 June Environment and Community Safety Overview and Scrutiny Committee (ECSOSC) meeting;
4. Extract from minutes of 22 June ECSOSC meeting;
5. Letter from ECSOSC Chairman Councillor Warren Morgan and further comments from Councillor Sven Rufus to 30 July Environment CMM meeting;
6. Extract from minutes of 30 July CMM meeting;
7. Report from the Director of Environment which was agreed at the 24 September Environment CMM meeting;
8. Appendix to the 24 September CMM report;
9. Extract from the draft minutes from the 24 September Environment CMM meeting;
10. Official record of the Environment CMM decision on this matter;
11. Further information on this issue supplied by the Director of Environment

**Documents in Members' Rooms:**

There are none.

**Background Documents:**

1. The Council's constitution (May 2008).