

Public Document Pack

Call In Committee

Tuesday, 29th September, 2020
6.00 pm

[Join Here](#)

AGENDA

1. Welcome and Apologies

To welcome those present to the meeting and to receive any apologies for absence.

2. Declarations of Interest

To receive any declarations of interest in items on the agenda

DECLARATIONS OF INTEREST FORM

3

3. Procedure for Hearing a Call-in

To adopt the procedure for the call-in hearing.

Procedure for Call-in

4 - 6

4. Reasons for the Call-in

To receive the reasons for the call in of the decision.

Reasons for the Call-in

7

5. Blackburn Cinema Lease Amendment

**EMD-Part 1 - Blackburn Cinema Lease Amendments
v1.0**

8 - 10

5.1 Exclusion of Press and Public

To consider the Exclusion of Press and Public from the meeting as the items to be discussed may contain confidential information relating to contracts

5.2 Blackburn Cinema Lease extension.

Date Published: 18th September 2020
Denise Park, Chief Executive

DECLARATIONS OF INTEREST IN ITEMS ON THIS AGENDA

Members attending a Council, Committee, Board or other meeting with a personal interest in a matter on the Agenda must disclose the existence and nature of the interest and, if it is a Disclosable Pecuniary Interest or an Other Interest under paragraph 16.1 of the Code of Conduct, should leave the meeting during discussion and voting on the item.

Members declaring an interest(s) should complete this form and hand it to the Democratic Services Officer at the commencement of the meeting and declare such an interest at the appropriate point on the agenda.

MEETING: **Call-In Committee**

DATE: **28th September 2020**

AGENDA ITEM NO.:

DESCRIPTION (BRIEF):

NATURE OF INTEREST:

DISCLOSABLE PECUNIARY/OTHER (delete as appropriate)

SIGNED :

PRINT NAME:

(Paragraphs 8 to 17 of the Code of Conduct for Members of the Council refer)

GUIDANCE NOTE FOR CALL INS

The following procedure shall be used by overview and scrutiny committees when meeting to hear a call in.

1. *Chair of the Committee hearing the Call In welcomes those present.*
2. *Chair asks if everyone has a copy of the reasons why the decision had been called in along with a copy of the Call In procedure.*
3. *Chair asks for apologies/substitutes.*
4. *Chair asks whether there are any Declarations of Interest.*
5. *Chair asks the Legal Adviser to explain the process to be followed.*
6. *Chair asks the representative of those Members who requested the Call In and the Executive Member to take their places at the table.*
7. *Chair asks representative of those Members who requested the Call In to speak to explain the reasons for the call in. He/she may do so alone or may do so with another person.*
8. *The Executive Member may seek clarification of any issues from the Member representing those responsible for the Call In.*
9. *Members of the Committee may ask questions of that Member.*
10. *Chair asks the Executive Member to explain the reasons for the decision made by the Board. He/she may do so alone or may do so with the relevant Chief Officer.*
11. *The Member representing those who requested the Call In may ask questions.*
12. *Members of the Committee may ask questions of the Executive Member/Chief Officer.*
13. *The Member who requested the Call In and then the Executive Member may sum up.*
14. *The Chair asks the representative of those Members who requested the Call In and the Executive Member to leave the table and sit in the public area. They may remain in the room if they wish.*
15. *Chair requests any final contributions from Members before deciding how to proceed.*
16. *Chair indicates that Members of the Committee will now consider what they have heard and decide how to proceed. He asks the legal adviser to go through the options which are:*

To accept the decision

If Members do this then they need not do any more. The decision will take effect straight away. It could be that some minor issues arise during the debate which the Executive Member will agree to take on board. These might be dealt with as part of the Minute. As an example when a land sale was called in the Chief Executive gave assurances about how it would proceed and these were simply recorded in the minutes.

To refer the decision back to the decision making person or body

If Members do this they need to agree what their concerns are. These will be recorded in writing and presented to the decision making person or body who will then make a final decision. The decision will not take effect until it is reconsidered by the decision making person or body. (This decision may not be Called In)

To refer the decision to Council

Statutory Guidance from the DTLR (formerly ODPM, now DCLG) states 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 budget and policy framework or contrary to or not wholly in accordance with the budget. The Committee ought to identify those parts of the policy framework which are not being followed.

This situation has so far not arisen. Therefore the authority would be learning as it goes along. Guidance suggests that the correct approach in these circumstances would be for the Committee to refer the issue to the Monitoring Officer and Strategic Director Resources who would have to report on whether the issue is within the framework. A report would then go to the next meeting of the relevant Scrutiny Committee as well as to the Executive Board. If the view was that the decision fell outside the policy framework then the Scrutiny Committee could refer the issue to Council Forum. That may require a special Council meeting.

17. Move to Named Vote and recording of reasons for reaching such a decision.

18. Inform Executive Member of decision reached as soon as possible.

- (e) Having considered the decision, the Overview and Scrutiny Committee may
 - (i) refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or;
 - (ii) refer the matter to full Council. Such a referral should, in accordance with the Budget and Policy Framework Rules, only be made where the Committee believes that the decision is outside the policy framework or contrary to or not wholly in accordance with the budget. The procedures set out in those rules must be followed prior to any such referral.
- (f) If a decision is referred back to the decision making person or body it shall be reconsidered in the light of the written concerns of the Overview and Scrutiny Committee before a final decision is made.
- (g) If following a call in, the Overview and Scrutiny Committee does not refer the matter back to the decision making person or body and does not refer the matter to Council, the decision shall take effect on the date of the Overview and Scrutiny

Committee meeting. If the Overview and Scrutiny Committee does not meet the decision shall take effect from the date when the Committee should have met.

- (h) If the matter is referred to full Council and the Council does not object to a decision which has been made, then the decision will become effective on the date of the Council meeting.
- (i) If the Council does object the Council may take a decision, which is outside the policy and budgetary framework. Otherwise the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive Board as a whole or a committee of it, a meeting will be convened to reconsider within ten working days of the Council request. Where the decision was made by an individual, the individual will reconsider within ten working days of the Council request.

(Extract from the revised constitution issues to all Members on 27th July 2010.)

Please find below a Notice for a Call-In for The Blackburn Reel Cinema Lease Amendments.

BLACKBURN REEL CINEMA LEASE AMENDMENTS

We consider the decision to extend the lease for five additional years, as stated in the report should be subject to Call-In for the following Reasons:-

- This decision has been presented with insufficient information, particularly on safeguarding the councils long term – investment and interest.
- In our opinion, the statements in Part 4 (Key Issues and Links) 4.1, 4.2, and 4.3 cannot be sufficiently substantiated in view of the current commercial and economic climate.
- Part 6 of the report (Financial Implications) reiterates that the council will see an additional five years of rental income secured. This assertion appears to rely solely on Reels business plan being sustained for the full term of the lease. No alternative commercial lease plan has been presented to support councils confidence that this will be the case.
- The fact that the extension is at the behest of Reel Cinemas and there will be no increase in rental over the additional five years demonstrates that all the risk being taken in this project is falling on the council.
- Robust scrutiny of this decision is essential if transparency is to be maintained and public opinion convinced that this project will not turn out to be an expensive failure.



EXECUTIVE MEMBER DECISION

REPORT OF:	Executive Member for Growth and Development Executive Member for Finance and Governance
LEAD OFFICERS:	Director of Growth and Development
DATE:	1st September 2020

PORTFOLIO/S AFFECTED:	Growth and Development Finance and Governance
WARD/S AFFECTED:	Blackburn Central

SUBJECT: Blackburn Cinema Lease Amendments

1. EXECUTIVE SUMMARY

1.1 For the Executive Members to approve the extension of the Blackburn Cinema lease contractual term from 20 to 25 years and delegate authority to the Director of Growth and Development to agree the final amendments to the lease and lease plans to reflect the actual build.

2. RECOMMENDATIONS

That the Executive Members:

2.1 Note construction works for the new cinema and under-croft car park will be completed by October 2020. Reel Cinema will then commence their fit-out works from October and will complete these works for a December 2020 opening. All external and highway works associated with Jubilee Square will also be complete for the December opening.

2.2 Approves the extension of the lease contractual term from 20 to 25 years.

2.3 Delegates authority to the Director of Growth and Development to agree the final amendments to the lease and lease plans.

3. BACKGROUND

3.1 In late 2016 the Council undertook an informal tender exercise with four of the main cinema operators in the UK to operate a new cinema development on the site of the former Waves Leisure Centre in Blackburn Town Centre. The bid from Reel Cinema was the strongest financial offer and had the highest quality score when assessed against other bids. Reel Cinema was appointed as the preferred bidder and the Council signed an agreement for a 20 year lease of the completed development which will see them operate the new cinema and retail unit.

3.2 In March 2018 the Council undertook procurement of the construction works through the Council's Growth Framework. Barnfield Construction submitted the most economically advantageous tender as was appointed to undertake the construction works.

3.3 Barnfield Construction commenced works in September 2018 and are scheduled to substantially complete the works by October 2020 with the building being handed over to Reel Cinema to then undertake their fit-out works in time for a proposed opening date of December 2020.

3.4 Casey are progressing with the adjacent Jubilee Square Public Realm & Highway works and these are scheduled to be complete by December 2020.

3.5 Reel Cinema have proposed an amendment to the lease agreement by extending the contractual term from 20 to 25 years.

3.6 As the build has progressed there have been alterations, which now necessitate amendments to the lease and lease plans.

4. KEY ISSUES & RISKS

4.1 In the current economic climate the extension of the lease from 20 to 25 years shows Reel Cinema commitment to the borough and there is no additional risk to the Council.

4.2 There is no increase in rent for the extended lease term however, the Council will see an additional 5 years of rental income secured.

4.3 The final amendments to the lease and lease plans reflect changes that have occurred during the actual build.

5. POLICY IMPLICATIONS

5.1 The development of Cinema, Undercroft Car park and Jubilee Square is within the Northgate area of Blackburn Town Centre and meets the objectives of the Council's adopted Core Strategy and Local Plan Part 2.

5.2 It also accords with the 'Culture and Life' objective of the Blackburn Town Centre Strategy. Specifically, Policy 26 of the Local plan supports the delivery of the projects within the defined Northgate Quarter.

5.3 The project also helps to deliver the improvements set out in the Northgate Conservation Area Appraisal and Management Plan, and the heritage priority and ambitions within the Council's 12 point Plan.

5.4 All of these projects are illustrated within the Town Centre Supplementary Planning Document (SPD) August 2018.

6. FINANCIAL IMPLICATIONS

The Council will see an additional 5 years of rental income secured.

7. LEGAL IMPLICATIONS

The formal lease between the Council and Reel Cinema has already been drafted as part of the Agreement for Lease. The proposed changes will be incorporated as changes to the lease before the lease is engrossed and sealed. The parties may need to undertake a formal Deed of Variation to the original Agreement for Lease to incorporate this change but this can be done in parallel with the lease document completion and is a modest document itself.

8. RESOURCE IMPLICATIONS

8.1 Current staff resources from the Council's Growth and Legal teams will be utilised to agree the revised lease agreement.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 ☒ Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 ☐ In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. (*insert EIA link here*)

Option 3 ☐ In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. (*insert EIA attachment*)

10. CONSULTATIONS

Public consultation on development of the Cinema and Under-croft Car park was undertaken during the planning application process, with the scheme receiving planning approval in March 2018 (see planning application reference 10/18/077).

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

VERSION:	1.0
CONTACT OFFICER:	Simon Jones
DATE:	1 st September 2020
BACKGROUND PAPER:	EBD Blackburn Cinema Under-croft Carpark & Jubilee Square July 2018