



Meeting Agenda

Special Policy Development Committee (Call-In), Town Hall, Lytham St. Annes Tuesday 16 March 2010, 6:15pm

The main doors to the Town Hall will be open to the public at 6:00pm
The maximum capacity for this meeting room is 60 persons –
once this limit is reached no other person can be admitted.

POLICY DEVELOPMENT COMMITTEE MEMBERSHIP

CHAIRMAN	Fabian Craig-Wilson
VICE-CHAIRMAN	Kiran Mulholland

Councillors

Brenda Ackers	Ben Aitken
George Caldwell	Michael Cornah
Patricia Fieldhouse	Richard Fulford-Brown
Craig Halewood	Leonard Davies
John Davies	Howard Henshaw
David Chedd	Elizabeth Oades
Elaine Silverwood	Heather Speak

Contact: Annie Womack, St. Annes (01253) 658423
Email: anniew@fylde.gov.uk



Our Vision

To establish Fylde Borough Council as a high performing local authority

Our Corporate Objectives

To improve the economic, social and environmental well-being of our communities through:

- The promotion and enhancement of the natural built environment
- Increasing the availability and access to good quality housing for all
- Maintaining healthy and safe communities to reduce the fear of crime
- Supporting and sustaining a strong and diverse Fylde coast economy to further enhance employment prospects

We will achieve this by:

Focusing on customer requirements
Clear community and organisational leadership
Delivering high quality, cost-effective services
Partnership working



A G E N D A

PUBLIC PLATFORM

*To hear representations from members of the public in accordance with
Committee procedure rules*

ITEM	PAGE
1. DECLARATIONS OF INTEREST: <i>If a member requires advice on Declarations of Interest he/she is advised to contact the Monitoring Officer in advance of the meeting. (For the assistance of Members an extract from the Councils Code of Conduct is attached).</i>	4
2. SUBSTITUTE MEMBERS: <i>Details of any substitute members notified in accordance with council procedure rule 26.3</i>	4
3. CALL-IN REQUEST – ECONOMIC WELLBEING RESERVE	7-18
4. CALL-IN REQUEST – DISPOSAL OF LAND AT PIER HOLE, LYTHAM	19-35

Personal interests

8.—(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) any body—
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

- (i) any employment or business carried on by you;
 - (ii) any person or body who employs or has appointed you;
 - (iii) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - (iv) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (vi) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (vii) any land in your authority's area in which you have a beneficial interest;
 - (viii) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision;

(2) In sub-paragraph (1)(b), a relevant person is—

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

- 9.—(1)** Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000(d).

Prejudicial interest generally

- 10.—**(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business—
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
 - (c) relates to the functions of your authority in respect of—
 - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

- 11.—** You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
 - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

- 12.—**(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;
 unless you have obtained a dispensation from your authority's standards committee;
 - (b) you must not exercise executive functions in relation to that business; and
 - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

REPORT



REPORT OF	MEETING	DATE	ITEM NO
DEMOCRATIC SERVICES	POLICY DEVELOPMENT SCRUTINY COMMITTEE	16 MARCH 2010	3

CALL-IN REQUEST – ECONOMIC WELLBEING RESERVE

Public Item

This item is for consideration in the public part of the meeting.

Summary

Ten members of the council have invoked the recovery and call-in procedure to question an individual cabinet member decision made on 4 March 2010 relating to the virement of up to £40,000 from the Economic Wellbeing Reserve on the basis of assumptions set out in the report (which is attached as an appendix to this report). *Members of the committee must therefore consider whether the decision is not in the interests of the inhabitants of the borough and ought to be reconsidered.* If they believe that it is not, they may refer it back to the decision-maker or to the full council for further consideration.

Recommendations

Members are invited to discuss whether the information provided illustrates that the decision taken by the cabinet member on 4 March 2010 was not made in the interests of the inhabitants of the borough.

Cabinet Portfolio

The item falls within the following Cabinet portfolio:

Finance and Resources – Councillor Roger Small

Report

1. If ten councillors feel that a decision taken by or on behalf of the Cabinet is not in accordance with the interests of the inhabitants of the Borough, they can ask for it to be 'recovered'. A recovered decision cannot be implemented until the Policy and Service Review Scrutiny Committee has decided whether to call it in or not. Ten councillors have made such a request relating to the decision made by Councillor Small on 4 March 2010, concerning the virement of up to £40,000 from the Economic Wellbeing Reserve. Therefore at this stage the decision in relation to this issue is termed as being recovered; that is, that it cannot be implemented.
2. The recovery request from the Councillors, the relevant decision notice and related report are attached as appendices.
3. The Policy Development Scrutiny Committee has three options.
4. The first is to call-in the decision by asking the decision-maker to reconsider it. The second is to call-in the decision by asking the full council to look at it. Full council could then decide to ask the decision-maker to reconsider the decision if it feels it appropriate. The committee could take either of these two options if it felt that the decision being questioned is not in the interests of the inhabitants of the Borough and ought to be reconsidered. The third option is for the committee to take no further action, in which case the decision can be implemented.
5. It is suggested that the meeting is conducted in the following order:
 - Councillor Silverwood is invited to outline why she and her fellow councillors feel that the decision of Councillor Small taken on 04 March 2010 was not made in the interests of the inhabitants of the borough
 - A representative of the Cabinet to respond (usually the Portfolio Holder - in this case Councillor Roger Small)
 - Policy Development Scrutiny Committee members to question both members and officers, and any other witnesses which they may call to aid them in their judgement
 - Conclusion reached on whether to call-in the decision or otherwise
 - If it is decided not to call-in the decision the committee is requested to state its reasoning in reaching this decision
 - If it is decided to call-in the decision the committee should decide where the matter should be referred and set out its concerns, which the decision-maker or council should have regard to. An alternative recommendation can form part of the committee's deliberations.
6. Under the council's code of conduct, a member must regard himself as having a personal and prejudicial interest in the consideration by a scrutiny committee of a decision made by a council body of which he is a member. However, as the decision in question was taken by Councillor Small as portfolio holder, rather than the Cabinet collectively, members of the Cabinet other than Councillor Small do not have a personal or prejudicial interest in the consideration of the call-in request and so may attend the meeting. Councillor Small may attend and take part only for the purpose of answering questions and giving evidence.

IMPLICATIONS	
Finance	None arising directly from this report
Legal	None arising directly from this report
Community Safety	None arising directly from this report
Human Rights and Equalities	None arising directly from this report
Sustainability	None arising directly from this report
Health & Safety and Risk Management	None arising directly from this report

Report Author	Tel	Date	Doc ID
Annie Womack	(01253) 658423	9 March 2010	Call-in report - Economic Wellbeing Reserve

List of Background Papers		
Name of document	Date	Where available for inspection

Attached documents

1. Call in request
2. Relevant report
3. Relevant individual cabinet member decision

RECOVERY and CALL-IN REQUEST

I wish to register a request for the following decision to be called in for reconsideration prior to implementation. My objection to the decision and alternative decision/proposal are set out below.

Decision title: **FUNDED BUDGET INCREASE – ECONOMIC WELLBEING RESERVE**

Decision number: 2010/007

and date of
decision:

04	March	2010
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Lead Councillor Personal Details

Name (Please print)	Elaine Silverwood
Address	
Daytime contact number	
Email	
Signature	<i>Received by e-mail</i>

Nine other Fylde Borough Councillors who are named below and have signed this form support me in my call-in request

NAME	SIGNATURE
Ken Hopwood	<i>by e-mail</i>
Howard Henshaw	<i>by e-mail</i>
Keith Beckett	<i>by e-mail</i>
Barbara Pagett	<i>by e-mail</i>
Elizabeth Oades	<i>by e-mail</i>
Maxine Chew	<i>by e-mail</i>
Louis Rigby	<i>by e-mail</i>
Linda Nulty	<i>by e-mail</i>
David Chedd	<i>by e-mail</i>

NB – The signatures were received by e-mail and can be viewed by request to Annie Womack, Democratic Services

The Objection and Alternative Decision/Proposal

Please complete the boxes overleaf and continue on a separate sheet if necessary - 500 words maximum.

(Remember: The objection needs to state how you believe the decision wasn't taken in accordance with the interests of the residents of Fylde Borough.)

The Objection is:

Full Council agreed “to the creation of a reserve of £50,000 in 2009/2010 from the General Fund Reserves balances to aid economic promotion and recovery in the Borough”. At both Full Council and the Non-Domestic Ratepayers meeting, Roger Small said that this money was specifically for the three town centres to try to help during the recession.

I believe that this decision is not in the interest of all the Borough Council and the suggested use for two events will not benefit large areas of the Borough, and certainly not the 3 town centres.

The alternative decision/proposal is (optional):**Call-in Checklist**

Please ensure you can tick every box below before handing in the request

Have you.....	Please Tick
read the guidance notes on the call-in procedure?	
clearly stated the decision title the call-in refers to?	
stated the date the decision was made on?	
obtained the signatures from nine other Councillors to support the call-in?	
stated in the objection box how this decision is not in the interests of the residents of the Borough?	

What happens next with your request? In the first instance it will be forwarded to the Head of Governance who will acknowledge its receipt and ascertain that the request for recovery is valid (e.g. received on time, completed correctly and correct number of signatories). He, or his representative, will also advise the relevant Portfolio Holder and Director, and the Chairman of the Policy Development Scrutiny Committee that the request has been received. Within 10 working days from receipt of your request (or as soon as is reasonably practicable) a date will be arranged for the Policy Development Scrutiny Committee to hear the request. You and your co-signatories will be advised of the date at the earliest opportunity, as will the decision-maker and Director. At the meeting itself you will be given the opportunity to make representations to the committee, as will the decision-maker, and you may be questioned by them. You will find out at the meeting whether the decision is to be called in or not.

On completion, this form should be sent to:

Head of Governance,
Town Hall, Lytham St.Annes, Lancashire FY8 1LW

To be received by no later than 6 working days from the date when the minutes were published

REPORT



REPORT OF	MEETING	DATE	ITEM NO
DIRECTOR OF STRATEGIC DEVELOPMENT	INDIVIDUAL PORTFOLIO HOLDER	4 TH MARCH 2010	2010/007

FUNDED BUDGET INCREASE – ECONOMIC WELLBEING RESERVE

This item is for consideration by the portfolio holder for Finance and Resources

Summary

The report presents proposals for the allocation of a funded budget increase from the Economic Wellbeing reserve approved by the Council.

Recommendation

That the Portfolio Holder agrees –

A net revenue budget virement (from the Economic Wellbeing Reserve) up to a maximum of £40,000 on the basis of the assumptions set out in the report.

Alternative options considered and rejected

The reserve could be spent on a range of different economic wellbeing projects. It is considered that the events proposed offer significant tourism benefits to the Borough.

Cabinet Portfolio

The item falls within the following Cabinet portfolio: Finance and Resources -
Councillor Roger Small

Report

1. Summary of Previous decisions

a) Cabinet on the 18th November 2009 resolved:

To recommend to Council the amendment of the MTFS by the inclusion of a £50,000 provision for an economic wellbeing reserve and that the allocation of any expenditure from this reserve be subject to the agreement of the Portfolio Holder for Finance & Resources.

b) Council on the 23rd November 2009 resolved:

To agree to the creation of a reserve of £50,000 in 2009/10 from the General Fund Reserves balances to aid economic promotion and recovery in the borough.

2. Proposals for allocation of reserve

A number of proposals have been put forward as to how the reserve could be allocated. These are listed below:

Events in support of Tourism Promotion

i) Proms Concert - Lytham Green

This is based on the previous successful model which ran until 2004. The event is proposed to take place on the evening of Saturday 21st August 2010 and would be headlined by the internationally renowned Lesley Garret and the Manchester Camerata. The event is being promoted by Cuffe and Taylor a local entertainment promotions organisation and the Council has been asked to provide a guarantee (potentially in the region of £22,000) should ticket sales not reach their break-even point of 4500.

As with the previous Proms Concerts a road closure would be necessary immediately prior to and during the event to protect public safety. This is included in the estimated costs of the event.

The proposed event would be marketed widely and would clearly attract additional visitors to the borough and act as an anchor event for a weekend of activities included in the proposed Battle of Britain celebration event outlined below.

ii) Battle of Britain Anniversary Weekend

This proposed event is a celebration of the 70th anniversary of the Battle of Britain. It is being promoted by an organisation from Kent with an established track-record of managing such events and would include a weekend of activities in Lytham St Annes on Saturday 21st and Sunday 22nd August 2010 to complement the proposed Proms Concert. The event would involve a number of 1940's enthusiasts from across the country meeting to perform battle re-enactments around the Battle of Britain /Second World War theme.

It is proposed that there would be period entertainment and demonstrations e.g. wartime cooking, battlefield camps and rations, marching drills, equipment demonstrations, etc. It is proposed to include a small number of trade stands containing wartime memorabilia and a 'NAAFI' wagon serving wartime food/drink. The proposed event is a mirror of others held elsewhere in the country, which have attracted significant visitor numbers.

The Council has been asked to provide a contribution to facilitate the event which will be in the region of £18,000. The event would be free to attend and therefore there would be no tickets sales to generate income.

The proposed Battle of Britain celebrations and the Proms Concert are expected to generate a significant increase in visitors to the borough during the proposed weekend events and generate a legacy of interest in Fylde in support of the visitor economy.

Financial Implications

The total estimated costs of the Proms event is £80,000. Ticket sales will generate income of approximately £100,000, assuming full attendance. A profit sharing arrangement has been negotiated between the Council and the event organisers at 50% of sales above 3500 tickets. The Council is asked to provide a guarantee should ticket sales not reach the break-even position.

Estimated ticket sales, based on experience of previous similar events, suggests that the level of budget provision required will be between £5k and £22k, which can be contained within the overall budgetary provision of £50,000. £8,000 has already been received via the Lowther Pavilion box office in advance ticket sales.

The support requested from the Council in relation to the Battle of Britain celebrations is £18,000 and there is no projected income stream associated with this event.

Risk Assessment

The risk assessment (see Appendix 1) sets out the potential risks in commissioning the events and outlines the mitigation proposed.

IMPLICATIONS	
Finance	There are a number of assumptions made in relation to future income generation and close budget monitoring of the events will be required in order to determine promptly if any financial concerns arise so that appropriate action can be taken.
Legal	Outlined in the risk assessment.
Community Safety	None arising directly from the report.
Human Rights and Equalities	None arising directly from the report.
Sustainability	None arising directly from the report.
Health & Safety and Risk Management	Outlined in the risk assessment.

Attached documents

Appendix 1 – Risk assessment

Report Author	Tel	Date	Doc ID
Paul Walker	(01253) 658431	1 st February 2010	

List of Background Papers		
Name of document	Date	Location
CABINET MINUTES	18 TH NOVEMBER 2009	HTTP://WWW.FYLDE.GOV.UK/GETASSET.ASPX?ID=FAA0ADQAMQA0AHWAFABGAGEABABZAGUAFAB8ADAAFAA1
COUNCIL MINUTES	23 RD NOVEMBER 2009	HTTP://WWW.FYLDE.GOV.UK/GETASSET.ASPX?ID=FAA0ADQANAA2AHWAFABGAGEABABZAGUAFAB8ADAAFAA1

Committee Risk Assessment Template

Directorate: Strategic Development Services			Date of Assessment:		
Section: Regeneration and Tourism			Assessment Team:		
Assessment Activity / Area / Type: Proposed events weekend of 21/22 nd August 2010					
Do the hazards create a business continuity risk? No					
RISK DESCRIPTION	RISK LIKELIHOOD	RISK IMPACT	RISK MITIGATION	RESIDUAL RISK	RISK OWNER / RISK REGISTER
Lytham Green is held by the Council via a deed of gift dated 1923 from Squire J T Clifton's estate. There are several covenants within the deed which restrict the use and development of The Green for certain prescribed purposes. Challenge from those benefitting from the covenants.	3	2	The Council is currently seeking legal opinion on the scope of these covenants		Director of Strategic Development/ Head of Governance
Cancellation of events through bad weather on the day	2	4	Insurance would be in place to cover such eventuality		Director of Strategic Development / Event Organiser
Expenditure overrun /reduction in ticket sales	2	3	Firm budget quotes received and confirmed and ticket sales closely monitored. Budget monitoring of all events is required and the Portfolio Holder (Finance & Resources) informed on any financial matters arising so appropriate action can be taken.		Director of Strategic Development / Event Organiser

RISK DESCRIPTION	RISK LIKELIHOOD	RISK IMPACT	RISK MITIGATION	RESIDUAL RISK	RISK OWNER / RISK REGISTER
Income shortfall	3	3	Marketing plan proposed		Director of Strategic Development / Event Organiser

Risk Likelihood

6 = Very High
5 = High
4 = Significant
3 = Low
2 = Very Low
1 = Almost impossible

Risk Impact

1= Negligible
2 = Marginal
3 = Critical
4 = Catastrophic

Multiply the likelihood by the impact and if the score is above 12 then mitigating action should be undertaken to reduce the risk. This action should be recorder and monitored in either a directorate or corporate risk register.



**FINANCE & RESOURCES PORTFOLIO HOLDER
(COUNCILLOR ROGER SMALL)**

**INDIVIDUAL CABINET MEMBER DECISION
DATE – 4 MARCH 2010**

NOTICE OF DECISION

1. FUNDED BUDGET INCREASE – ECONOMIC WELLBEING RESERVE

The portfolio holder for Finance and Resources considered a report by the Director of Strategic Development – (reference 2010/007).

Response from Portfolio holder(s)	Approval.
DECISION	The Portfolio holder agreed to the recommendation in the report - 1. To approve a net revenue budget virement (from the Economic Wellbeing Reserve) up to a maximum of £40,000 on the basis of the assumptions set out in the report.

In accordance with the call-in procedure the decision will come into force, and may then be implemented, on the expiry of six working days after the publication of the decision, (the date of this notification).

4 March 2010

REPORT



REPORT OF	MEETING	DATE	ITEM NO
DEMOCRATIC SERVICES	POLICY DEVELOPMENT SCRUTINY COMMITTEE	16 MARCH 2010	4

CALL-IN REQUEST – DISPOSAL OF LAND AT PIER HOLE

Public Item

This item is for consideration in the public part of the meeting.

Summary

Ten members of the council have invoked the recovery and call-in procedure to question an individual cabinet member decision made on 2 March 2010 relating to the sale of land at Pier Hole, Lytham on the terms outlined in the report (which is attached as an appendix to this report). *Members of the committee must therefore consider whether the decision is not in the interests of the inhabitants of the borough and ought to be reconsidered.* If they believe that it is not, they may refer it back to the decision-maker or to the full council for further consideration.

Recommendations

Members are invited to discuss whether the information provided illustrates that the decision taken by the cabinet member on 2 March 2010 was not made in the interests of the inhabitants of the borough.

Cabinet Portfolio

The item falls within the following Cabinet portfolio:

Economic Wellbeing – Councillor Albert Pounder

Report

1. If ten councillors feel that a decision taken by or on behalf of the Cabinet is not in accordance with the interests of the inhabitants of the Borough, they can ask for it to be 'recovered'. A recovered decision cannot be implemented until the Policy and Service Review Scrutiny Committee has decided whether to call it in or not. Ten councillors have made such a request relating to the decision made by Councillor Pounder on 2 March 2010, concerning the sale of land at Pier Hole, Lytham. Therefore at this stage the decision in relation to this issue is termed as being recovered; that is, that it cannot be implemented.
2. The recovery request from the Councillors, the relevant decision notice and related report and other documents are attached as appendices.
3. The Policy Development Scrutiny Committee has three options.
4. The first is to call-in the decision by asking the decision-maker to reconsider it. The second is to call-in the decision by asking the full council to look at it. Full council could then decide to ask the decision-maker to reconsider the decision if it feels it appropriate. The committee could take either of these two options if it felt that the decision being questioned is not in the interests of the inhabitants of the Borough and ought to be reconsidered. The third option is for the committee to take no further action, in which case the decision can be implemented.
5. It is suggested that the meeting is conducted in the following order:
 - Councillor Pagett is invited to outline why she and her fellow councillors feel that the decision of Councillor Pounder taken on 02 March 2010 was not made in the interests of the inhabitants of the borough
 - A representative of the Cabinet to respond (usually the Portfolio Holder - in this case Councillor Albert Pounder)
 - Policy Development Scrutiny Committee members to question both members and officers, and any other witnesses which they may call to aid them in their judgement
 - Conclusion reached on whether to call-in the decision or otherwise
 - If it is decided not to call-in the decision the committee is requested to state its reasoning in reaching this decision
 - If it is decided to call-in the decision the committee should decide where the matter should be referred and set out its concerns, which the decision-maker or council should have regard to. An alternative recommendation can form part of the committee's deliberations.
6. Under the council's code of conduct, a member must regard himself as having a personal and prejudicial interest in the consideration by a scrutiny committee of a decision made by a council body of which he is a member. However, as the decision in question was taken by Councillor Pounder as portfolio holder, rather than the Cabinet collectively, members of the Cabinet other than Councillor Pounder do not have a personal or prejudicial interest in the consideration of the call-in request and so may attend the meeting. Councillor Pounder may attend and take part only for the purpose of answering questions and giving evidence.

IMPLICATIONS	
Finance	None arising directly from this report
Legal	None arising directly from this report
Community Safety	None arising directly from this report
Human Rights and Equalities	None arising directly from this report
Sustainability	None arising directly from this report
Health & Safety and Risk Management	None arising directly from this report

Report Author	Tel	Date	Doc ID
Annie Womack	(01253) 658423	9 March 2010	Call-in report - Disposal of land at Pier Hole

List of Background Papers		
Name of document	Date	Where available for inspection

Attached documents

1. Call in request
2. Relevant report and supporting documents
3. Relevant individual cabinet member decision

RECOVERY and CALL-IN REQUEST

I wish to register a request for the following decision to be called in for reconsideration prior to implementation. My objection to the decision and alternative decision/proposal are set out below.

Decision title: DISPOSAL of LAND AT PIER HOLE, LYTHAM.

Decision number: 2010/005 and date of decision:

2ND MARCH 2010

Lead Councillor Personal Details

Name (Please print)	BARBARA PAGETT
Address	10, EVESHAM RD., FAIRHAVEN, LYTHAM ST. ANNES
Daytime contact number	01253 - 725495
Email	cus.bpagett@fylde.gov.uk.
Signature	Barbara Pagett.

Nine other Fylde Borough Councillors who are named below and have signed this form support me in my call-in request

NAME	SIGNATURE
KEN HOPWOOD	by e-mail
HOWARD HENSHAW	by e-mail
MAXINE CHEW	by e-mail
KEITH BECKETT	by e-mail
ELAINE SILVERWOOD	by e-mail
ELIZABETH OADES	by e-mail
DAVID CHEDD	by e-mail
PAUL HAYHURST	by e-mail
HEATHER SPEAK	by e-mail

The Objection and Alternative Decision/Proposal

Please complete the boxes overleaf and continue on a separate sheet if necessary - 500 words maximum.

(Remember: The objection needs to state how you believe the decision wasn't taken in accordance with the interests of the residents of Fylde Borough.)

NB - SIGNATURES WERE RECEIVED BY E-MAIL AND ARE AVAILABLE TO VIEW, BY REQUEST TO ANNIE WOMACK, DEMOCRATIC SERVICES

The Objection is:

-No Council owned land should be disposed of without the full consent of all Fylde Borough Councillors and as the area is highly sensitive from an environmental viewpoint no decision should be made by one person. This is not in the interest of the residents of the Borough.

The alternative decision/proposal is (optional):

That disposal of this area of land and its attendant environmental issues should be debated more fully in the wider arena of the Council Chamber.

Call-in Checklist

Please ensure you can tick every box below before handing in the request

Have you.....	Please Tick
read the guidance notes on the call-in procedure?	✓
clearly stated the decision title the call-in refers to?	✓
stated the date the decision was made on?	✓
obtained the signatures from nine other Councillors to support the call-in?	✓
stated in the objection box how this decision is not in the interests of the residents of the Borough?	✓

What happens next with your request? In the first instance it will be forwarded to the Head of Governance who will acknowledge its receipt and ascertain that the request for recovery is valid (e.g. received on time, completed correctly and correct number of signatories). He, or his representative, will also advise the relevant Portfolio Holder and Director, and the Chairman of the Policy Development Scrutiny Committee that the request has been received. Within 10 working days from receipt of your request (or as soon as is reasonably practicable) a date will be arranged for the Policy Development Scrutiny Committee to hear the request. You and your co-signatories will be advised of the date at the earliest opportunity, as will the decision-maker and Director. At the meeting itself you will be given the opportunity to make representations to the committee, as will the decision-maker, and you may be questioned by them. You will find out at the meeting whether the decision is to be called in or not.

On completion, this form should be sent to:

Head of Governance,
Town Hall, Lytham St. Annes, Lancashire FY8 1LW

To be received by no later than 6 working days from the date when the minutes were published

REPORT

REPORT OF	MEETING	DATE	ITEM NO
DIRECTOR OF STRATEGIC DEVELOPMENT SERVICES	INDIVIDUAL PORTFOLIO HOLDER	2 ND MARCH 2010	2010/005

DISPOSAL OF LAND AT PIER HOLE, LYTHAM

This item is for consideration by the portfolio holder for Economic Wellbeing

Summary

The Lytham and District Wildfowlers Association has made an offer to purchase an area of mud flats in the Ribble Estuary extending to around 65 hectares (160 acres). They already own most of the adjacent foreshore extending as far as Freckleton. Initially the land would be sold as a wildlife sanctuary, but in due course the Association may seek the necessary consents to introduce shooting on some of the land. Terms have been provisionally agreed, subject to Council approval at £5,000, plus an additional £60 per acre to be paid if and when consent for shooting is granted (a maximum of a further £9,600).

Natural England, the Environment Agency and the Royal Society for the Protection of Birds (RSPB) have been consulted. Only the RSPB have expressed concerns. As these concerns relate to the introduction of shooting, it is considered that the Environment Agency and Natural England will consider these objections if and when an application for consent to shoot is made.

At its meeting in January 2010 the Asset Management Group recommended approval of the sale on the terms outlined above.

Recommendation

It is recommended that the approval is given to the sale of this land on the terms outlined above.

Reasons for recommendation

There will be a capital receipt to the Council, albeit initially at a modest level

This Council will be relieved of responsibility for area of land which has no commercial value but is highly sensitive from an environmental viewpoint

That responsibility will transfer to an organisation which has a proven track record, as well as a vested interest, in nature conservation

Any future decision regarding the introduction of shooting will be in the hands of those bodies best placed to consider the environmental impact

Alternative options considered and rejected

The only alternative is for the Council to retain ownership and responsibility for the land, which may have cost implications in the future. This option should, however, be taken if the Council accepts the view of the RSPB that it should 'demonstrate its own commitment to biodiversity, through creating and managing and maintaining a sanctuary area at Pier Hole'.

Cabinet Portfolio

The item falls within the following Cabinet portfolio:
Economic Wellbeing: Councillor Albert Pounder

Report

Around four years ago the Council was approached by Lytham and District Wildfowlers and Conservation Association to sell an area of land in the Ribble Estuary at Lytham. Consultations and discussions have taken place, but have only recently reached the stage at which a decision can be made.

The land extends to 65 hectares (160 acres) and comprises tidal mudflats adjoining an area of foreshore already owned by the Association (a plan is attached). The association also owns the remainder of the foreshore as far as Freckleton, and the subject land is only accessible on foot through that other land.

The Association would eventually likely to introduce shooting on the eastern part of the land (the western part is an important conservation area for pintails). Initially the land will be maintained as a wildlife sanctuary and shooting will only take place in the future if the consent of Natural England and the Environment Agency is obtained.

The land is considered to have no commercial value other than for shooting. The sale price provisionally agreed is therefore modest initially, but will rise if shooting is permitted. There has been no expenditure or maintenance by the Council, but in its current state the land is considered to be a liability from a purely commercial viewpoint, rather than an asset.

The following bodies have been consulted:

Natural England has no objection in principle to the sale. They inform us that they have worked with the association for a number of years and found them to be responsible landowners who have actively managed their land sympathetically with nature conservation in mind. They thank the Council for proposing to transfer this land to a reputable Association who have a proven track record of working well with Natural England and managing adjacent areas of the estuary. They would, however, undertake an assessment of any proposal to introduce shooting as this could have a significant effect on the habitat.

The Environment Agency has considered the proposed sale and informs us that it does not need to be involved at the land sale stage. They will, however, need to be consulted by the Association at a later date if they propose to carry out works or introduce wildfowling on or adjacent to the land.

The RSPB take the view that they would prefer the Council to retain ownership of the land and demonstrate its commitment to biodiversity by creating, managing and maintaining a sanctuary area at Pier Hole.

Only the RSPB object to the sale and despite their natural concerns about wildfowling, it is considered that the purchaser is better placed than the council to meet their aspirations for conservation.

Copies of the previous and most recent consultation replies are attached.

Risk Assessment

There are some minor risks associated with the actions referred to in this report. The main risk is that the purchaser would not maintain the land in the best interests of nature conservation. This risk is considered negligible given the track record of Lytham Wildfowling to conservation on the adjacent land it owns.

Conclusion

Officers recommend the sale of the land to Lytham and District Wildfowling Association.

Report Author	Tel	Date	Doc ID
Gary Sams – Principal Estates Surveyor	(01253) 658462	Date of report	

List of Background Papers		
Name of document	Date	Where available for inspection
Document name		Council office or website address

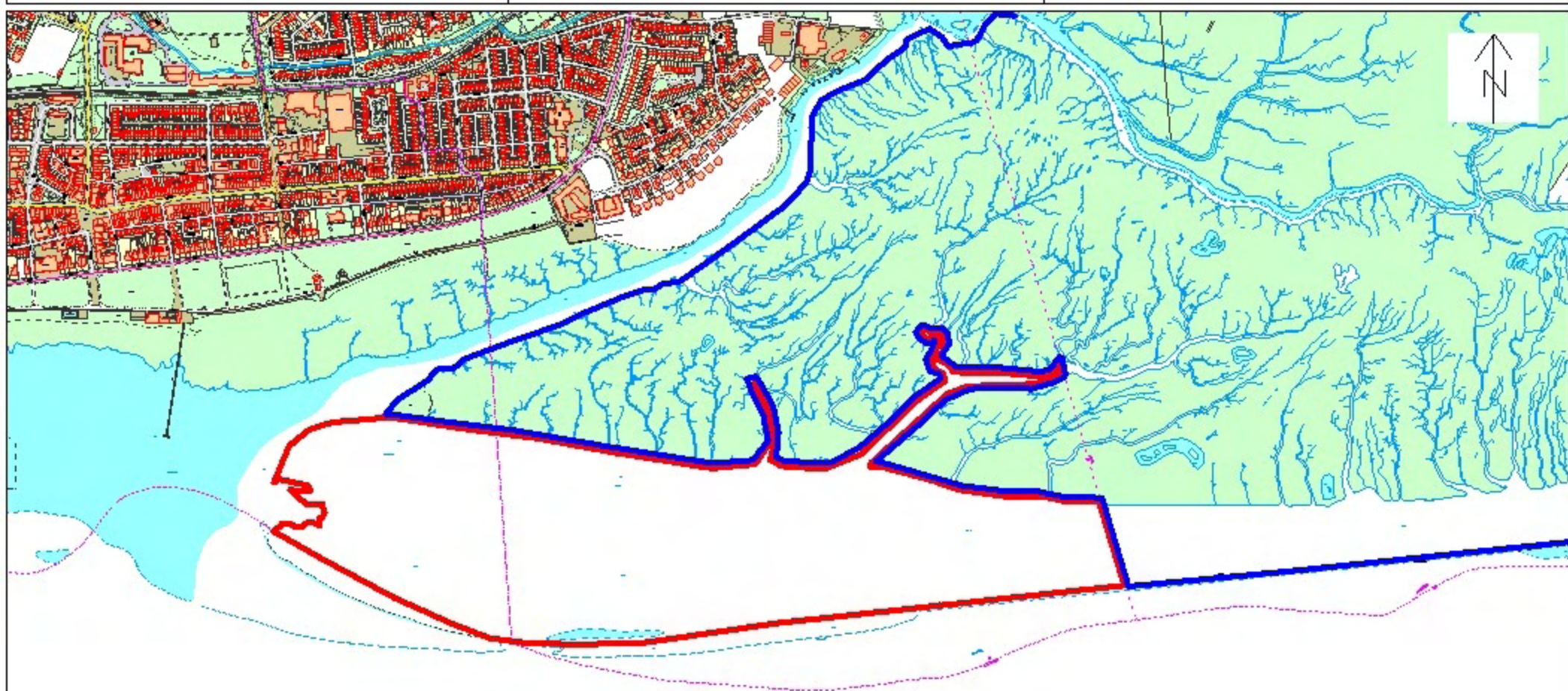
Attached documents

1. Plan showing the land to be sold/land owned by Lytham Wildfowling
2. Original consultation response from the RSPB dated 14 November 2007
3. Recent updated consultation response from RSPB dated 25 June 2009
4. Original consultation response from Natural England dated 30 January 2008
5. Updated consultation response from Natural England (incorrectly dated 6 April 2008 but actually sent on 6 June 2009)

IMPLICATIONS	
Finance	The capital receipt of £5,000 rising to a maximum of a further £9,600 if permission for shooting is sought and granted on the entire site.

Legal	There are no implications
Community Safety	There are no implications
Human Rights and Equalities	There are no implications
Sustainability and Environmental Impact	Transfer of the asset to Lytham Wildfowlers should ensure better environmental management
Health & Safety and Risk Management	Transfer of the asset to Lytham Wildfowlers should provide closer on site management and supervision.

Fylde Borough Council Strategic Development Services, Town Hall St Annes. Lancashire. FY8 1LW.	Pier Hole Printed on: 11/02/2010 Scale : 1:12500	Pier Hole - edged red L&DWA existing ownership - edged blue
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for birds
for people
for ever



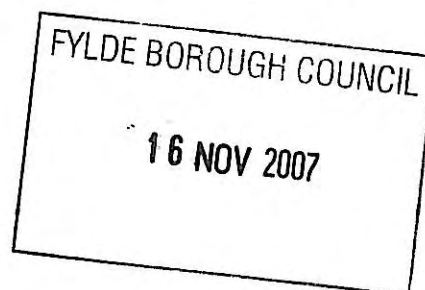
Mr Paul Walker,
Executive Manager,
Planning and Development,
Fylde Borough Council,
Town Hall,
St Annes,
Lancashire.

RSPB
Rural Business Centre
Myerscough College
Bilsborrow
Preston
Lancashire, PR3 0RY
Tel: 01995 642253
www.rspb.org.uk

November 14th 2007.

Dear Mr Walker

Re: Land at Pier Hole, Lytham.



Further to our recent meeting to discuss the potential sale of the above land by Fylde Borough Council to the Lytham and District Wildfowling Association, we are now writing to confirm the views we expressed at this meeting.

The Ribble Estuary is designated as a UK Site of Special Scientific Interest, and as a European Special Protection Area under the EU Birds Directive. These designations are in recognition of the internationally important numbers of migratory waterfowl that spend each winter on the estuary. The Ribble is currently ranked 2nd amongst UK wetlands, with an average of 230,000 wintering waterfowl. This includes species such as pintail, widgeon, black-tailed godwit, grey plover and knot.

The land at Pier Hole is within the Ribble Estuary SSSI/SPA, and is known to be important for several of the species for which the estuary has been designated. These include pintail and black-tailed godwit, which can often be seen off the Lytham Esplanade in good numbers at this location.

The sale of this area by Fylde Borough Council for the purposes of wildfowling therefore raises several significant issues:

- Increased mortality and disturbance to species for which the Ribble Estuary has been designated as a UK SSSI and a European SPA.
- For this activity to take place, Natural England will need to grant consent. To do this, they will need to ascertain that there will be no impact on site integrity by allowing wildfowling to commence in this area. The question that NE will need to ask, is whether this area will be able to make the same contribution to SPA Favourable Conservation Status after this activity has been introduced.
- We believe that in considering whether to sell this area for the purposes of wildfowling, Fylde Borough Council should be aware of its biodiversity duties under the recent NERC act, which places a responsibility on public bodies to further biodiversity, protect SSSI's and enhance habitats.
- Managing the area as a refuge, free of the inevitable disturbance from wildfowling, would be a clearer way for Fylde Borough Council to discharge this duty in relation to this land.
- Given the location of this land along the Lytham Esplanade, management as a refuge would provide opportunities for interpretation and promotion, highlighting the importance of the Ribble estuary and the role that Fylde Borough Council is playing in helping manage this internationally important wetland.

Our Ref:



I hope these comments are useful, and we looking forward to working with Fylde Borough Council to find a satisfactory solution to this important issue.

Yours sincerely,

Andrew Gouldstone

Andrew Gouldstone
RSPB Area Conservation Manager

Tel 01995 642253

cc Simon Kularatne, Corporate Properties Officer

RSPB
Northern Regional Off
7.3.1. Cameron House
White Cross
South Road
Lancaster
LA1 4XQ



a million
voices for
nature

Northern England Region
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White Cross Estate
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Tel: 01524 581000
Fax: 01524 581028
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Gary Sams,
Principal Estates Surveyor,
Fylde Borough Council,
Town Hall,
Lytham St Annes,
Lancashire,
FY8 1LW

13 JUL 2009

June 25th 2009

Dear Mr Sams

Re: Proposed disposal of Pier Hole, Ribble Estuary, Lytham.

Thank-you for your letter of 4th June, highlighting Fylde Borough Council's intention to progress the sale of the above land.

We are concerned that this intent does not address the points we made when we wrote to you on the 14th November 2007.

This location supports significant populations of species that feature in the Ribble Estuary SPA designation.

This very public location, and the high wildlife value that it supports, would provide an excellent opportunity for Fylde Borough Council to highlight the value of the Ribble Estuary SSSI/SPA, and to demonstrate its own commitment to biodiversity, through creating and managing and *maintaining* a sanctuary area at Pier Hole.

This would also represent a clear commitment to the Council's biodiversity and SSSI duties under both the Wildlife and Countryside Act and the NERC Act.

Whilst selling the land with a sanctuary provision in place is commendable, it appears there will be no requirement for any prospective new owner to maintain this. For this sanctuary status to be lifted would require consent from Natural England, and this would require an Appropriate Assessment under the Habitats Regulations, to determine no adverse effect on the integrity and function of the SPA.

Fylde Borough Council has a track record of providing environmental interpretation through its involvement in the Ribble Discovery Centre. The RSPB would be keen to see it develop this track record further and for Fylde Borough Council to maintain Pier Hole as an important sanctuary area within the Ribble SPA.

Yours sincerely,

Andrew Gouldstone
RSPB Area Conservation Manager

Tel 01524 581010, mob 07779 650519.

Our Ref:

Patron Her Majesty the Queen President Julian Pettifer Chairman of Council Ian Darling FRICS Chief Executive Graham Wynne CBE
The Royal Society for the Protection of Birds (RSPB) is a registered charity: England and Wales no. 207076, Scotland no. SC037654 640-1748-08-09



Date: 30 January 2008
Our ref: (L) 32/2/4
Your ref:



Mr Paul Walker
Executive Manager
Planning and Development
Fylde Borough Council
Town Hall
St Annes
Lancashire

North West Region
Pier House
Wallgate
Wigan
Lancashire
WN3 4AL

T 01942 820342
F 01942 614026

Dear Mr Walker

Acquisition Proposal for Pier Hole, Ribble Estuary

Apologies for not attending the meeting held towards the end of last year to discuss the possible acquisition by Lytham and District Wildfowlers Association of Pier Hole. The invitation to Natural England was delayed internally, however, for future correspondence on this matter I will be the point of contact.

In principle, Natural England have no objection to the wildfowlers taking ownership of Pier Hole. Having worked with the Association for a number years on their existing holding, Natural England have found them to be responsible land owners who have actively managed their land and are currently meeting the favourable condition requirements set for designated sites. That said; it is our opinion that commencing wildfowling activities in or immediately adjacent to Pier hole is likely to cause a significant effect and an appropriate assessment as described under regulation 48 of the Conservation (Natural Habitats &c.) Regulations 1994, as amended, (the Habitat Regulations), would be required. In this case, Natural England are the competent authority and would be responsible for carrying out the assessment.

Natural England met with the Dave Nichols, Club Secretary and RSPB in Dec 2007 to discuss these issues, it was agreed that the Association would need to submit full proposals of how they intend to utilise the site, and provide any subsequent information/data in order to determine a decision.

You may be interested to know that the Association did indicate that they may still be keen to purchase even if shooting was not permitted, providing the purchase price reflected this. Natural England would not wish to delay any possible land acquisition plans and so would not be opposed to a conditional purchase if Fylde wished to proceed.

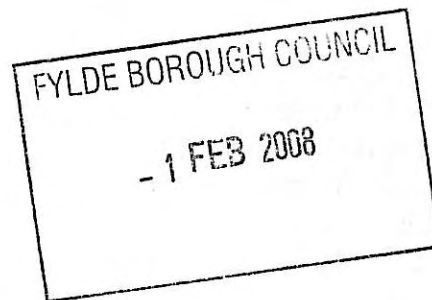
Natural England
Head Office
1 East Parade
Sheffield S1 2ET

I would be happy to meet and discuss these points in more detail with yourself and the Association if required.

Yours sincerely



Janette Gazzard
Land and Sea Team - Lancashire
Direct Dial: 01942 614023
Mobile: 07788 410842
Email: janette.gazzard@naturalengland.org.uk



cc: Sarah Wilson, Team leader
Dave Nichols, Lytham & District Wildfowlers Association

Natural England

The Annexe, Barton Hall, Barton,
Preston, Lancashire, PR3 5RZ

Telephone 0300 060 2154

Natural England Website

www.naturalengland.org.uk

Gary Sams BSc FRICS-
Principal Estates Surveyor
Fylde Borough Council
Town Hall
Lytham St Annes
Lancashire FY8 1LW



6 April 2009

T: 0300 060 2154

F: 0300 060 2167

Dear Mr Sams

Ribble Estuary SSSI**Proposed disposal of Pier Hole, Ribble Estuary, Lytham**

Thank you for your letter of 4 June notifying us of your intention to progress the sale of the above named area of inter-tidal land to the Lytham Wildfowler's Association following previous consultations..

We note that the nature of this transaction has now changed and that it is now your Council's intention to transfer this land (the foreshore between the high and low water marks of ordinary tides) subject to the provision that it will be retained as a sanctuary.

We hope that the Lytham Wildfowler's will find this acceptable and will be willing to purchase the land accordingly, since we have found them to be a responsible body who have actively managed their land adjacent sympathetically with nature conservation in mind and as such it has been maintained in a favourable management condition.

Please therefore accept our thanks for taking into consideration past comments and for proposing to transfer this land into the hands of reputable Wildfowling Association who have a proven track record of working well with Natural England and its predecessor organisations in managing adjacent areas within the Ribble estuary of international importance for its wildfowl and wading birds.

Yours sincerely

Jon Hickling

Conservation Adviser

Lancashire- Land and Sea Team

Direct Line: 0300 060 2064

Mobile: 07880 741795

E-mail: jon.hickling@naturalengland.org.uk



**ECONOMIC WELLBEING PORTFOLIO HOLDER
(COUNCILLOR ALBERT POUNDER)**

**INDIVIDUAL CABINET MEMBER DECISION
DATE – 2 MARCH 2010**

NOTICE OF DECISION

1. DISPOSAL OF LAND AT PIER HOLE, LYTHAM

The portfolio holder for Economic Wellbeing considered a report by the Director of Strategic Development – (reference 2010/005).

Response from Portfolio holder(s)	Approval.
DECISION	The Portfolio holder agreed to the recommendation in the report - 1. To approve the sale of land at Pier Hole, Lytham on the terms outlined in the report.

In accordance with the call-in procedure the decision will come into force, and may then be implemented, on the expiry of six working days after the publication of the decision, (the date of this notification).

2 March 2010

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