

County Buildings  
Wellington Square  
AYR KA7 1DR  
Tel No: 01292 612436



23 March 2023

To:- **Councillors Dowey, Clark, Connolly, Davis, Ferry, Kilbride, Lyons, Pollock and Shields.**

Dear Councillor

## **CABINET (SPECIAL)**

You are requested to participate in a special meeting of the Cabinet to be held on **Wednesday 29 March 2023 at 3.30 p.m.** for the purpose of considering the undernoted business.

This meeting will be held on a hybrid basis for Elected Members, will be live-streamed and available to view at <https://south-ayrshire.public-i.tv/>

Yours sincerely

**CATRIONA CAVES**  
Head of Legal and Regulatory Services

## **B U S I N E S S**

1. Sederunt and Declarations of Interest.
2. Buildings, Housing and Environment.

**Call in from Cabinet of 14 March 2023 relating to Arran Mall Update (copy of call-in paper and minute excerpt attached) (report by Head of Legal and Regulatory Services - Members only).**

3. **Consideration of Disclosure of the Above Confidential Report.**

For more information on any of the items on this agenda, please telephone Courtney Buchanan, Committee Services on at 01292 612436, at Wellington Square, Ayr or  
e-mail: [courtney.buchanan@south-ayrshire.gov.uk](mailto:courtney.buchanan@south-ayrshire.gov.uk)  
[www.south-ayrshire.gov.uk](http://www.south-ayrshire.gov.uk)

/webcasting

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**EXCERPT FROM THE MINUTES OF  
THE AUDIT AND GOVERNANCE PANEL  
OF 22 MARCH 2023**

**Call in from Cabinet of 14 March 2023 – “Arran Mall Update”.**

Reference was made to the Minutes of the Cabinet of 14 March 2023 (Page 4, paragraph 11) when the Cabinet had decided

- (1) to approve Officers to act in terms of Option 3, with delegated power to act in terms of Option 1 in the event that agreement on Option 3 cannot be reached with the sellers; and
- (2) to request that Officers provide a further report setting out proposals for the development of the site.

The Panel was advised that the report had been the subject of a call-in (Members only), details of which were outlined by Councillor Craig Mackay when he introduced and spoke to the call-in.

Concern was expressed that there was no Member of the Cabinet present to speak on their decision and the Chief Executive advised that she would address this issue for future call-ins considered at this Panel.

A full discussion took place in relation to the terms of the call-in.

Questions were raised by Panel Members and by Councillor MacKay and answers were provided by officers. The Head of Legal and Regulatory Services undertook to provide a response in writing to Councillor MacKay detailing the information provided to members in reports prior to the decision that was taken by members not to proceed with the building of the sports centre.

The Chair then outlined the options open to the Panel when considering this call-in.

The Panel adjourned to allow a Member of the Panel the opportunity to discuss the terms of a proposed Motion with officers.

Upon reconvening and in terms of Standing Order No. 19.9, there was no general agreement to the unopposed motion, therefore, the Panel moved to a vote for or against the Motion.

The Panel

**Decided:** to recommend to Cabinet that they amend the existing recommendation 2.1.3 in the report to Cabinet of 14 March 2023 headed Arran Mall Update and substitute it with the following :-

2.1.3 agree officers are granted authority to seek a response from the sellers in relation to option 3 with a report in relation to option 3 to Cabinet on 25 April 2023 if they are willing to negotiate and failing which officers will conclude the Agreement in terms of Option 1 immediately.

DRAFT



**Audit and Governance Panel  
Call-In Requisition**

We, the undersigned, require that the following decision of the Cabinet be called-in to the next meeting of the Audit and Governance Panel.

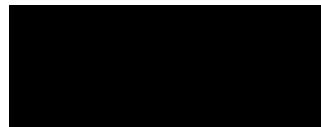
<b>Date of Cabinet</b>	Tuesday 14 March 2023
<b>Item No.</b>	10(a)
<b>Report Title</b>	Arran Mall Update

*Signature*

*Print Name*

(1) **Councillors responsible**

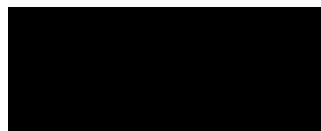
for call-in



**Cllr Craig Mackay**

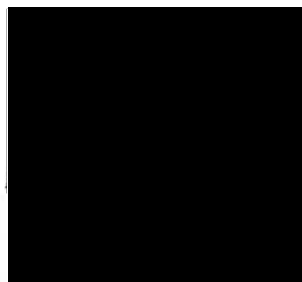
(2) **Councillors supporting call-in (three required):**

(a)



**Cllr Ian Cochrane**

(b)



**Cllr Philip Saxton**

(c)

**Cllr Ian Cavana**

Date 14/03/23.....

## Reason

In order to improve information for Councillors, to assist officers in briefing the Panel and to improve the quality of Scrutiny, we confirm that the item is being called-in for the following reason(s).

Councillors are reminded that the 'reasons' section should be completed with sufficient detail as to allow members of the Audit and Governance Panel and officers to appreciate the cause for concern prompting the call-in. (This may be by reference to a part or parts of the Report or Decision or by describing an issue which may not have been adequately addressed or by requesting the provision of additional information which should be specified). Where a call-in requisition contains any questions, or requests for further or additional information, officers, in consultation with the relevant Portfolio holder, shall, where possible, provide written responses to be intimated to all Councillors in advance of the Panel. Receipt of responses to questions shall not itself preclude further scrutiny of the item called-in for the reason set out in this form.

1. Concern over delegation of decision-making following negotiation, given the scale of the issue and potential cost to the public purse and the risks to the Council depending on the direction negotiations take;
2. Lack of costings provided in the paper means the decision was taken without a full breakdown of costs both for Option 1 and Option 3. These need to be provided in full to inform the decision.

### Note

Call-ins must be delivered to the Chief Executive no later than 4.00 pm on the day (usually Thursday) two days following the day (usually Tuesday) on which the Cabinet has met.

08:55	15-Mar-23	Eileen Howat
<i>Time Received</i> .....	<i>Date Received</i> .....	<i>Received by</i> .....

**EXCERPT FROM THE MINUTES OF  
THE CABINET  
OF 14 MARCH 2023**

**Buildings, Housing and Environment.**

**11. Arran Mall Update.**

There was submitted a report (Members only) of 8 March 2023 by the Head of Legal and Regulatory Services providing Members with a further update on the external legal advice obtained regarding the outstanding suspensive conditions for the site acquisition of the Arran Mall; to present options available to the Council on how to now proceed; and to seek approval for the proposed course of action set out in the recommendations.

Having considered the terms of the external legal advice to the Council and the options available to the Council, as set out in paragraph 4.1 of the report, the Cabinet

**Decided:**

- (1) to approve Officers to act in terms of Option 3, with delegated power to act in terms of Option 1 in the event that agreement on Option 3 cannot be reached with the sellers; and
- (2) to request that Officers provide a further report setting out proposals for the development of the site.