

ANNUAL COUNCIL

17 MAY 2018

*PART 1 – PUBLIC DOCUMENT

AGENDA ITEM No.

14

TITLE OF REPORT: KEY DECISIONS – ANNUAL REPORT ON CASES OF SPECIAL URGENCY

REPORT OF THE LEADER OF THE COUNCIL

1. EXECUTIVE SUMMARY

1.1 The purpose of this report is to inform the Council of any occasions over the past year where the provisions relating to “Special Urgency” have been used in connection with the publication of an intention to make a Key Decision, as required by legislation.

2. RECOMMENDATIONS

2.1 That the report be noted.

3. REASONS FOR RECOMMENDATIONS

3.1 To comply with Regulation 19 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (“the Regulations”).

4. ALTERNATIVE OPTIONS CONSIDERED

4.1 None.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

5.1 None.

6. FORWARD PLAN

6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

7. BACKGROUND

7.1 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 came into force on 10 September 2012. The Regulations, inter alia, revised the procedures for publicity in connection with Key Decisions.

- 7.2 A Key Decision means an executive decision which is likely –
- (a) to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority's budget for the service or function to which the decision relates; or
 - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.
- 7.3 Regulation 9(2) requires that at least 28 clear days notice is given by the Council before a Key Decision is made. This requirement is ordinarily met at NHDC by the regular publication of the Forward Plan of Key Decisions.
- 7.4 Regulation 10 requires that, where the publication of the intention to make a Key decision under regulation 9(2) is impracticable, that decision may only be made –
- (a) where the proper officer has informed the chairman of the relevant overview and scrutiny committee or, if there is no such person, each member of the relevant overview and scrutiny committee by notice in writing, of the matter about which the decision is to be made;
 - (b) where the proper officer has made available at the offices of the relevant local authority for inspection by the public and published on the relevant local authority's website, if it has one, a copy of the notice given pursuant to sub-paragraph (a); and
 - (c) after five clear days have elapsed following the day on which the proper officer made available the notice referred to in sub-paragraph (b).
- 7.5 In cases of Special Urgency, Regulation 11 requires that where the date by which a key decision must be made, makes compliance with regulation 10 impracticable, the decision may only be made where the decision maker has obtained agreement from -
- (a) the chairman of the relevant overview and scrutiny committee; or
 - (b) if there is no such person, or if the chairman of the relevant overview and scrutiny committee is unable to act, the chairman of the relevant local authority; or
 - (c) where there is no chairman of either the relevant overview and scrutiny committee or of the relevant local authority, the vice-chairman of the relevant local authority,
- that the making of the decision is urgent and cannot reasonably be deferred.
- 7.6 Regulation 19(1) requires that the Executive Leader must submit to the relevant local authority at such intervals as may be determined by the relevant local authority a report containing details of each executive decision taken during the period since the last report was submitted to the authority where the making of the decision was agreed as urgent in accordance with Regulation 11.
- 7.7 It is the Executive Leader's recommendation that a report is submitted annually to Council at its annual meeting.

- 7.8 Regulation 19(2) requires that a report submitted for the purposes of Regulation 19(1) must include –
- (a) particulars of each decision made; and
 - (b) a summary of the matters in respect of which each decision was made.
- 7.9 Regulation 19(3) requires that the Executive Leader must submit at least one report under Regulation 19(1) annually to the relevant local authority.

8. RELEVANT CONSIDERATIONS

- 8.1 In 2017/18, the following Key Decisions made by NHDC required the Special Urgency procedure outlined in Regulation 11 to be invoked:

- (i) Subject Matter: North Hertfordshire Museum and Community Facility at Hitchin Town Hall – Acquisition of 14/15 Brand Street.

Decision:

- (1) That the protracted period over which the negotiations have been taking place be noted;
- (2) That officers be instructed to prepare a full report for the next Cabinet meeting with any revised proposal and to determine whether the proposal is acceptable;
- (3) That the alternative options to a negotiated acquisition from Hitchin Town Hall Limited (HTHL) be further explored and be included in the report to Cabinet; and
- (4) That it be noted that approval of some elements of the agreement may be required from the Cabinet Sub-Committee (Council Charities).

Decision Taker: Cabinet

Date of Decision: 19 December 2017

Reason for urgency: The decision could not be delayed until a later meeting because of the need to secure ownership of the properties and safeguard the Council's substantial interest.

- (ii) Subject Matter: North Hertfordshire Museum and Community Facility at Hitchin Town Hall – Acquisition of 14/15 Brand Street.

Decision:

- (1) That the current position in relation to the negotiations regarding the acquisition of 14/15 Brand Street be noted;
- (2) That officers be required to progress the alternative options, as identified in Paragraph 4.1 of the report, to enable the North Hertfordshire Museum to open fully (whilst keeping open the possibility of a negotiated settlement); and

- (3) That it be noted that some elements of any settlement agreement may be required from the Cabinet Sub-Committee (Council Charities).

Decision Taker: Cabinet

Date of Decision: 23 January 2018

Reason for urgency: The decision could not be delayed until a later meeting because of the need to secure ownership of the properties and safeguard the Council's substantial interest and due to 28 and 5 day notices of Part 2 information not being published (and following agreement of the Chairman of the Overview & Scrutiny Committee).

- (iii) Subject Matter: Options for Housing Investment Company

Decision:

That the principle of setting up a wholly owned holding company and trading companies for the purposes of development; and letting existing and future assets be approved, and the Chief Finance Officer and Executive Member for Finance and IT be given delegated authority to determine the detail of the structure.

Decision Taker: Cabinet

Date of Decision: 27 March 2018

Reason for urgency: To progress this matter due to an administrative oversight as the item had not been included on the most recent version of the Council's Forward Plan, and neither had a notice been published stating that part of the meeting (to consider Item 19, the Part 2 item on the same matter) would be held in private (and following agreement of the Chairman of the Overview & Scrutiny Committee).

9. LEGAL IMPLICATIONS

- 9.1 The requirements of the Regulations are set out in the main body of this report.

10. FINANCIAL IMPLICATIONS

- 10.1 There are no financial implications arising directly from this report. In the event of the use of Special Urgency procedures, financial (and other) implications would be considered in the decision making process and reported to Full Council.

11. RISK IMPLICATIONS

- 11.1 There are no direct risk implications arising from this report.

12. EQUALITIES IMPLICATIONS

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

12.2 There are no direct equalities implications arising from this report.

13. SOCIAL VALUE IMPLICATIONS

13.1 The Social Value Act and “go local” policy do not apply to this report.

14. HUMAN RESOURCE IMPLICATIONS

14.1 There are no human resource implications.

15. APPENDICES

15.1 None.

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

17.1 None.