
Council



Forest Heath
District Council

| | | |
|----------------------------|--|---------------|
| Title: | Report on Special Urgency and Use of Chief Executive Urgency Powers | |
| Paper No: | COU/FH/18/015 | |
| Paper to and date: | Council | 25 April 2018 |
| Documents attached: | None | |

1. Report on Special Urgency

- 1.1 **Part 4, Access to Information Procedural Rules, of the Constitution (paragraph 18.3)** requires the Leader of the Council to submit quarterly reports to the Council on the Executive decisions taken (if any) in the circumstances set out in Rule 17, Special urgency in the preceding three months.
- 1.2 Accordingly, the Leader of the Council reports that the following executive decision was taken under the Special Urgency provisions of the Constitution, with the agreement of the Chairman of the Overview and Scrutiny Committee:

Subject

Investing in our Commercial Asset Portfolio: 113 High Street and 3 The Avenue, Newmarket

Reason why decision could not reasonably be deferred

- 1.3 On 13 March 2018, the Cabinet was asked to consider an exempt report containing details of a potential purchase of the freehold of 113 High Street and 2 The Avenue, Newmarket, as an investment in the Council's commercial asset portfolio, before making a decision in private session.
- 1.4 As it was the intention and given the urgency of the matter which was not only commercially sensitive, but time critical as the auction for the

property was being held on 14 March 2018, it was intended that the Cabinet decision should also be exempted from the Call-in procedure.

1.5 A decision was required in private session to endorse the exercising of the Chief Executive's urgency powers (*see reporting of the use of these in Section 2 below*) for negotiating at auction, the purchase of a property in Newmarket. A successful purchase offered the opportunity for the Council to increase the number of temporary accommodation units available, as well as providing a rental income to the Council. It also supported the Council's Strategic Framework and Investment Strategy in that it provided an opportunity of blended return to provide much needed housing, future revenue and capital income as well as supporting business with retail accommodation.

1.6 As provided for under Part 4 of the Constitution under the Overview and Scrutiny Rules paragraph 14.4, and also paragraph 17.1 of the Access to Information Procedure Rules, the Chairman of the Overview and Scrutiny Committee had agreed that:

- the decision proposed was reasonable in all the circumstances; and
- given the restricted timescale in which the decision was required to be made, it should be treated as a matter of urgency and therefore could not reasonably be deferred or be subject to call-in.

1.7 The decision made by Cabinet on 13 March 2018, was as follows:

That:-

(1) *The intention for the Chief Executive to use his powers of urgency to negotiate at auction, the purchase of the identified property at 113 High Street/3 The Avenue, Newmarket, be endorsed.*

(2) *It be noted that having obtained this endorsement, the Chief Executive will authorise a budget up to a maximum of £850,000, to be made available to facilitate the purchase, including fees and Stamp Duty Land Tax, to be funded from the Investing in the Growth Agenda fund.*

(3) *It be noted that should the purchase be made, the Council's Section 151 Officer will make the necessary changes to the Council's prudential indicators as a result of Recommendation (2).*

1.8 It should be noted that the purchase was successful within the allocated budget, with the property being purchased for £715,000 plus costs and this information has now been made available in the public domain.

Recommendation:

1.9 Council is requested to **NOTE** the taking of the above executive decision in private session under the Special Urgency provisions of the Constitution.

2. Use of Chief Executive's Urgency Powers

2.1 In relation to the provision of using the Chief Executive's Urgency Powers Part C (a) of the Scheme of Delegation to Officers in Part 3, Functions and Responsibilities, of the Constitution, states that:

'(a) Where, in his/her opinion, by reason of limitation of time or urgency, a decision is required on any matter, after such consultation as he/she considers necessary (or as is required by the Council's Budget and Policy Framework Procedure Rules in Part 4 of this Constitution), he/she shall have power to make a decision provided that any such decision shall be reported to the next meeting of the Cabinet, appropriate Committee or Council...'

Subject

Investing in our Commercial Asset Portfolio: 113 High Street and 3 The Avenue, Newmarket

Reason why decision could not reasonably be deferred

- 2.2 As stated in paragraph 1.4 above, given the restricted timescale in which the decision was required to be made in order that the Council could bid for the purchase of the identified property on the day of the auction, it needed to be treated as a matter of urgency.
- 2.3 Before the Chief Executive exercised his power to negotiate at auction, the purchase of the identified property at 113 The High Street and 3 The Avenue, Newmarket and authorised a budget, as detailed in the decision in 1.7(2) above to facilitate the purchase, he sought agreement and endorsement from the Cabinet that this was a sound investment opportunity that should be pursued. Prior to this, consultation had also been held separately with:
- the Portfolio Holder for Planning and Growth;
 - the West Suffolk Lead for Housing;
 - the Chairman of the Overview and Scrutiny Committee, as summarised in paragraph 1.6 above;
 - the Council's Section 151 Officer, Monitoring Officer and other appropriate officers.

Recommendation:

Council is requested to **NOTE** the use of the Chief Executive's Urgency Powers in accordance with the Council's Constitution, as detailed above.