
Council



St Edmundsbury
BOROUGH COUNCIL

Title:	EXEMPTION REMOVED Report on Special Urgency and Use of Chief Executive Urgency Powers	
Paper No:	COU/SE/18/012	
Paper to and date:	Council	24 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: 20 High Street, Haverhill

Reason why decision could not reasonably be deferred

- 1.3 On 27 March 2018, the Cabinet was asked to consider an exempt report containing details of a potential purchase of a property in High Street, Haverhill 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 28 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 Haverhill. A successful purchase would provide the Council with a property offering both strategic and investment potential. In the short to medium term the property would provide an income from the current tenant (Iceland Foods Ltd), whilst in the longer term there would be the opportunity to help shape the High Street and improve pedestrian circulation and connectivity in the retail core. It also supported the aspirations of the Haverhill Town Centre Masterplan and accorded with the West Suffolk Growth Investment Strategy.

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 27 March 2018, was as follows:

That:

- (1) *subject to the inclusion of additional clarification that in the event the vendor fails to provide an indemnity to mitigate any risk presented by a pre-existing lease on the site, Option (b) of the options set out at paragraph 2.3.3 of Exempt Report No: CAB/SE/18/026 regarding the purchase of the identified property at 20 High Street, Haverhill, be agreed;*
- (2) *subject to recommendation (1) above, the intention for the Chief Executive to use his powers of urgency to negotiate at auction, the purchase of the identified property at 20 High Street, Haverhill, be endorsed;*
- (3) *it be noted that subject to this endorsement, the Chief Executive authorises a budget up to a maximum of £2,004,000, 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; and*
- (4) *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 (3).*

1.8 It should be noted that the purchase was successful within the allocated budget. This does however mean that the above decision, including the content of this paper, and Exempt Cabinet Report No: CAB/SE/18/026 is presently commercially sensitive whilst completion of the sale goes

through, and therefore remains exempt at the present time. This information will be made available in the public domain at the appropriate time.

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:
- 2.2 *'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: 20 High Street, Haverhill

Reason why decision could not reasonably be deferred

- 2.3 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 20 High Street, Haverhill on the day of the auction, it needed to be treated as a matter of urgency.
- 2.4 Before the Chief Executive exercised his power to negotiate at auction, the purchase of the identified property at 20 High Street, Haverhill, and authorised a budget, as detailed in the decision in 1.7(3) 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 Chairman of the Overview and Scrutiny Committee, as summarised in paragraph 1.6 above;
 - Haverhill Ward Members; and
 - the Council's Section 151 Officer, Monitoring Officer and other appropriate officers.

Recommendation:

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