

Executive

Schedule of decisions

30 May 2019

Date of Publication:

Final date for Call-in under Overview & Scrutiny Procedure Rule 15:

Contact Officer: Democratic Services (01737 276182)

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ITEM

1. MINUTES

RESOLVED that the minutes of the Executive meeting held on 18 April 2019 be approved as a correct record and signed.

2. APOLOGIES FOR ABSENCE

Executive Members: Councillor E. Humphreys and Councillor G.J. Knight.

Non-Executive Members: Councillor M.S. Blacker.

3. DECLARATIONS OF INTEREST

Councillor Mrs N.J. Bramhall declared a non pecuniary interest in Items 6a and 11a – Acquisition of freehold land in Horley in respect of her capacity as a Portfolio Holder position on Surrey County Council.

Councillor V.H. Lewanski declared a pecuniary interest in Items 6a and 11a – Acquisition of freehold land in Horley in respect of his declared shareholding with the associated party involved in the acquisition.

Councillor N.D. Harrison declared a non pecuniary interest in Items 6a and 11a – Acquisition of freehold land in Horley in respect of his capacity as a Member of Surrey County Council.

4. COMMERCIAL GOVERNANCE: CHANGES TO EXECUTIVE SUB-COMMITTEES

RECOMMENDATIONS THAT ARE SUBJECT TO FULL COUNCIL APPROVAL

RECOMMENDED that:

- (i). a **Property and Investment Contingency Fund** be established, with a value of £1.0m, funded within the £25m that has been allocated in the approved Capital Programme 2019/2024 for investment in new capital schemes to support delivery of the Corporate Plan,

Housing Strategy and Investment Strategy, and that principle (vii) should be added to Article 14.3.3 of the Constitution, with the following wording:

(vii) decisions on the use of resources from the Property and Investment Contingency Fund of a value of more than £500,000 should be regarded as significant, superseding principles (i) and (iii) for such decisions.

- (ii). the Director of Finance and Organisation be authorised to approve the use of resources from the Property and Investment Contingency Fund for commercial investments in cases where this is judged to be necessary to mitigate the risk of the Council incurring significant financial or reputational costs, in consultation with the Leader, the Chair of the Commercial Ventures Executive Sub-Committee and Executive Member(s) with responsibility for investments and property matters, and that the Officer Scheme of Delegation be updated accordingly.**
- (iii). the Director of Finance and Organisation be authorised to approve the use of resources from the Property and Investment Contingency Fund for other capital investments in cases where this is judged to be necessary to mitigate the risk of the Council incurring significant financial or reputational costs, in consultation with the Leader, the Chair of the Commercial Ventures Executive Sub-Committee and Executive Member(s) with responsibility for investments and property matters, and that the Officer Scheme of Delegation be updated accordingly.**

DECISIONS THAT FALL WITHIN THE EXECUTIVE'S REMIT TO DETERMINE

RESOLVED that:

- (i). the Property Executive Sub-Committee be dissolved;**
- (ii). the Health and Wellbeing Executive Sub-Committee be dissolved;**
- (iii). the powers previously delegated to the Property Executive Sub-Committee and Health and Wellbeing Executive Sub-Committee revert to the Executive, unless otherwise specified in the following recommendations;**
- (iv). a Commercial Ventures Executive Sub-Committee be established, with the remit and terms of reference as set out at Annex 1 to the Executive's report;**
- (v). the shareholder function of the Council, with regard to Greensand Holdings Ltd, be delegated to the Commercial Ventures Executive Sub-Committee;**
- (vi). the shareholder function of the Council, with regard to Pathway for Care Ltd, be delegated to the Commercial Ventures Executive Sub-Committee;**
- (vii). the shareholder function of the Council, with regard to RBBC Ltd, be**

delegated to the Commercial Ventures Executive Sub-Committee;

- (viii) the partnership function of the Council, with regard to Horley Business Park Development LLP, be delegated to the Commercial Ventures Executive Sub-Committee;
- (ix). the Commercial Ventures Executive Sub-Committee be authorised to agree the incorporation and the proposal of winding up of companies, subject to relevant shareholder agreements, by the Council, to be conducted in accordance with the requirements of the Commercial Governance Framework, as set out in the terms of references of the Executive Sub-Committee;
- (x). the Commercial Ventures Executive Sub-Committee be authorised to agree the following arrangements as part of the establishment of companies by the Council, and in relation to companies, other commercial entities and partnerships thus established to the Council:
 - the Articles of Association for the entity
 - the Shareholder Agreement between the entity and the Council, including the initial Business Plan
 - the appointment of Directors of the company, including Non-Executive Directors
 - any Director Service Agreements
 - the appointment of a Company Secretary and Auditor.
- (xi). the Commercial Ventures Executive Sub-Committee be authorised to undertake the shareholder function of the Council with regard to future companies established by the Council;
- (xii). the Commercial Ventures Executive Sub-Committee be authorised to agree write-off of debts owed by Companies established by the Council to the Council, in consultation with all Executive Members;
- (xiii) the Commercial Ventures Executive Sub-Committee be authorised to agree Resourcing Agreements for commercial ventures established by, and being established by, the Council to use Council staff and facilities in furtherance of their business;
- (xiv) the Commercial Ventures Executive Sub-Committee be authorised to agree all matters in relation to the following, in line with the priorities in the Council's Capital Investment Strategy:
 - Loan, Grant, and Draw Down agreements with regard to commercial ventures established by, and being established by, the Council
 - Investment in properties
 - Other capital investments
 - Performance of investments

These matters to be agreed within a total limit of £25.0m for 2019/20, as allocated in the approved Capital Programme for 2019/2024 for investment in new capital schemes to support delivery of the Corporate

Plan, Housing Strategy and Investment Strategy, and henceforth in subsequent financial years within limits to be set and reviewed each year during the service and financial planning process, as subject to approval by Executive and Full Council.

- (xv) the Director of Finance and Organisation be authorised to agree, in consultation with members of the Commercial Ventures Executive Sub-Committee, spending on feasibility studies of potential commercial and investment opportunities, having regard to the Commercial Governance Framework which forms appendix 1 to the terms of reference of the Executive Sub-Committee. These matters to be agreed within a total limit of £250k for 2019/20, funded within the approved 2019/20 revenue budget, and henceforth within subsequent financial years within limits to be set and reviewed each year during the service and financial planning process, as subject to approval by Executive and Full Council;
- (xvi) all decisions of the Director of Finance and Organisation making determination on the use of resources from the Property and Investment Contingency Fund shall be reported to the Commercial Ventures Executive Sub-Committee at the next meeting where it is practical to do so;
- (xvii) the Constitution be updated by the Monitoring Officer to reflect the dissolution of the Property Executive Sub-Committee and the Health and Wellbeing Executive Sub-Committee, as an administrative update; and
- (xviii) the Constitution be updated by the Monitoring Officer to reflect the establishment of the Commercial Ventures Executive Sub-Committee and its agreed terms of reference as an administrative update.

Reason for decision:

The establishment of a Commercial Ventures Executive Sub-Committee will support the effective and efficient administration of the Council's commercial ventures and investments, in accordance with the Commercial Governance Framework adopted by the Council, following the Executive meeting of 18 March 2019 and following the recommendations of the Commercial Governance Review Member Task Group.

The Commercial Ventures Executive Sub-Committee will conduct all business which would previously have been conducted by the Property Executive Sub-Committee and the Health and Wellbeing Executive Sub-Committee. These Executive Sub-Committees are therefore no longer required.

The accompanying recommendations will support the effective decision making of the Executive Sub-Committee and implementation of decisions made, by allowing for supporting actions to be taken, within clearly defined limits to be set out each year.

Alternative options:

Make no changes to Executive Sub-Committees and the Council's commercial governance arrangements.

Request that alternative changes to the Council's commercial governance arrangements and/or Executive Sub-Committees and associated delegations be investigated.

Lead officer:
Head of Legal and Governance

5. APPOINTMENT TO THE BOARD OF THE BANSTEAD COMMON CONSERVATORS

RESOLVED that the following representatives be appointed to serve on the Banstead Commons Conservators for a three year period to May 2022:

- Dr J.H. Peacock
- Dr W.S. Bellenger
- Councillor Nadean Moses

Reason for decision:

To ensure that positions on the Board of the Banstead Commons Conservators are suitably filled.

Alternative options:

To decide which nominees to appoint or ask officers to seek new nominations.

Lead officer:
Director of People

6. PROPERTY ACQUISITIONS

It was noted that there was one property acquisition proposed, the acquisition of a freehold in Horley as set out below.

Lead officer:
Head of Legal and Governance

(a) ACQUISITION OF FREEHOLD IN HORLEY

RESOLVED that subject to a satisfactory due diligence, the Head of Legal and Governance, in consultation with the Head of Finance & Assets, Leader of the Council, and Executive Members with responsibility for Place & Economic Prosperity, Finance, and Investment & Companies, be authorised to:

- a. acquire the freehold land in Horley, as referred to in the part 2 section of the Executive's report, as a strategic investment to support the delivery of the Council's Corporate Plan objectives, and to finalise the Heads of Terms and associated agreements to support the acquisition, in line with the principles and financial requirements of the report.
- b. To fund the acquisition and supporting costs from the funding allocated within the approved Capital Programme for 2019/2024 for investment in capital schemes to support delivery of the Corporate Plan, Housing Strategy and Investment Strategy, as set out in paragraphs 8 and 9 of the part 2 section of

the report to the Executive.

Reason for decision:

To obtain Executive authority to acquire, subject to due diligence, the specified freehold of land in Horley, which will support the delivery of the Council's Corporate Plan objectives and provide the potential to generate additional income for the Council.

Alternative options:

Investigate alternative models for acquisition of the freehold land or to do nothing.

Lead officer:

Head of Legal and Governance

7. STATEMENTS

None.

8. ANY OTHER URGENT BUSINESS

None.

9. EXEMPT BUSINESS

RESOLVED that members of the Press and public be excluded from the meeting for the following item of business under Section 100A(4) of the Local Government Act 1972 on the grounds that:

- (i) it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act; and
- (ii) the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

10. APPOINTMENTS TO THE BOARD OF THE BANSTEAD COMMON CONSERVATORS (EXEMPT)

RESOLVED that the exempt information in relation to the appointment of representatives to be appointed to the Board of the Banstead Commons Conservators be noted.

Lead officer:

Director of People

11. PROPERTY ACQUISITIONS (EXEMPT)

It was noted that there was one property acquisition proposed, the acquisition of a freehold in Horley as set out below.

Lead officer:

Head of Legal and Governance

(a) **ACQUISITION OF FREEHOLD IN HORLEY (EXEMPT)**

RESOLVED that the exempt information in relation to the acquisition of freehold in Horley be noted.

Reason for decision:

Alternative options:

Lead officer:

Head of Legal and Governance

Meeting closed at 8.49 pm

Distribution (Electronically):

All Councillors (eMembers Room) and Management Team including the Chief Executive, S151 Officer, Monitoring Officer and Communications and Information Manager