

## **COUNCIL**

**8 OCTOBER 2020**

### **USE OF URGENCY PROVISIONS**

Report from: Perry Holmes, Chief Legal Officer  
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#### **Summary**

This report provides details of recent usage of urgency provisions contained within the Constitution.

#### **1. Budget and policy framework**

1.1. The Council's Constitution provides for a report to be submitted to Council following the usage of urgency provisions contained within the Constitution.

#### **2. Background**

2.1. Leader and Cabinet – urgency. Paragraph 15.11 (call-in and urgency) of the Overview and Scrutiny rules, as set out in the Council's Constitution, states that a decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The chair (or in their absence the vice-chair) of the relevant Overview and Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency.

2.2. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

2.3. Council – urgent action. Paragraph 4.1 of the Employee Delegation Scheme states that in relation to Council responsibilities, subject to consultation with the Leaders of all the groups which comprise at least 1/10<sup>th</sup> of the membership of the Council (or their nominees), and the provisions for urgent decisions which are contrary to any plan or strategy which has been approved or adopted by the Council or which are contrary to or not wholly in accordance with the budget approved by the Council (set out in Chapter 4, Part 3 of the Constitution), the Chief Executive and Directors shall have the power to act on behalf of the Council in cases of urgency only where the urgent matter is of

such a nature that it may be against the Council's interest to delay and where it is not practicable to obtain the approval of the Council.

2.4. Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

2.5. A summary of the recent use of these provisions is set out in the following section.

### 3. Leader/Cabinet (executive decisions)

3.1. On 4 August 2020, the Cabinet considered a report entitled Innovation Park Medway Local Development Order – Request to Re-consult. The report sought permission from Cabinet that the Draft Innovation Park Medway (IPM) Local Development Order (LDO) be re-consulted upon.

3.2. In line with rule 15.11 of Chapter 4, Part 5 of the Constitution, call-in can be waived where any delay likely to be caused by the call-in process would seriously prejudice the Council's or the Public's interests. The Chairman of the Regeneration, Culture and Environment Overview and Scrutiny Committee agreed that the decisions proposed were reasonable in all the circumstances and to them being treated as a matter of urgency and to waive call-in as this would have enabled officers to undertake consultation at the earliest opportunity.

3.3. The Cabinet made the following decisions:

3.4. The Cabinet approved consultation on the draft Local Development Order as set out in this report (decision no. 85/2020).

3.5. The Cabinet agreed to delegate authority to the Director of Place and Deputy Chief Executive, in consultation with the Leader, the Portfolio Holder for Inward Investment, Strategic Regeneration and Partnerships and the Portfolio Holder for Planning, Economic Growth and Regulation to finalise and approve the Local Development Order, Environmental Statement and Design Code prior to public consultation, as set out in paragraph 2.8 of the (Cabinet) report, in the interest of satisfying Environmental Impact Assessment requirements (decision no. 86/2020).

3.6. The Cabinet agreed to delegate authority to the Director of Place and Deputy Chief Executive, in consultation with the Leader, the Portfolio Holder for Inward Investment, Strategic Regeneration and Partnerships and the Portfolio Holder for Planning, Economic Growth and Regulation to approve any necessary amendments to the draft Local Development Order prior to public re-consultation as a result of representations from Highways England, Natural England and/or Tonbridge and Malling Borough Council (decision no. 87/2020).

3.7. The Cabinet agreed that decision numbers 85/2020, 86/2020 and 87/2020 were considered urgent and therefore should not be subject to call-in (decision no. 88.2020).

3.8. The Cabinet gave the following reasons for decision: Public consultation on the Local Development Order (LDO) and Environmental Statement is necessary in order to adopt the LDO, allowing high quality development to come forward at Innovation Park Medway.

#### 4. Council (non-executive decisions)

4.1. The Chief Executive considered an urgent report on 31 July 2020 on the Additions to the Revenue Budget (Appendix 1).

4.2. The Leader of the Council and the Leader of the Labour and Co-operative Group were consulted on the proposals and the Chief Executive made the following decision on 31 July 2020:

4.3. The Chief Executive agreed, using urgency powers, to add the following sums:

4.4. £2,506,451 added to the Council's revenue budget in respect of the third tranche of emergency funding for local authorities; and

4.5. £336,715 added to the Council's revenue budget in respect of the Local Authority Emergency Assistance Grant for Food and Essential Supplies.

#### 5. Financial, legal and risk management implications

5.1. The requirement to report decisions taken under the various urgency provisions is set out within the Constitution. Details of the financial, legal and risk implications are set out in full within the relevant reports.

#### 6. Recommendation

6.1. That the report be noted.

#### Lead officer contact

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#### Appendices

Appendix 1 – Chief Executive urgent decision 31 July 2020

#### Background papers

None