



The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (“the Regulations”) (Regulation 9)

NOTICE OF CONSIDERATION OF A CONFIDENTIAL KEY DECISION THAT HAS NOT BEEN INCLUDED ON THE FORWARD PLAN AS SUCH

The reason why the decision is urgent and cannot reasonably be deferred is that East Suffolk Council needs to consider an exempt key decision report about the East Suffolk Off Street Parking Order (the Order) which was made and came into force in August 2020. It is a key decision because the report is suggesting that variations to the Order be made, and these variations are likely to be significant in their effects on communities living or working in two or more wards in the district.

In accordance with the General Provisions (Paragraph 10) of the Local Authorities (Executives Arrangements (Meetings and Access to Information) England) Regulations 2012 (the Regulations), a key decision that has not been included on the Forward Plan can still be taken provided that:

- a) It is impractical to defer the decision until it has been included on the next Forward Plan.
- b) The Chairman of the Scrutiny Committee has been informed.
- c) The Proper Officer has made available to the public copies of the notice given to the Chairman of the Scrutiny Committee at the offices of the Council and its website.
- d) At least five clear days have elapsed since the Proper Officer complied with b) and c) above.

Where the date by which a meeting must be held makes compliance with this regulation impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from the Chairman of the Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred. This is also reflected in the Access to Information Rules (ATIR) which form part of the Council’s Constitution.

As soon as reasonably practicable after the decision-making body has obtained agreement to hold a private meeting, it must make available at the offices of the local authority a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred and publish that notice on the local authority’s website.

The FP contains details of all the matters likely to be the subject of Key Decisions and confidential and exempt decisions which will be taken by the Cabinet. The FP is updated on a monthly basis or as required, ensuring that all Key Decisions and confidential/exempt decision that are due to be taken are included in the FP. The FP is published at least 28 days before the start of the period covered by the FP.

The Report identifies a small number of administrative errors in the Order which have come to light since it was made and the Council wishes to react as quickly and effectively as it can to them. With this in mind, the Council reviewed the Order to understand what had happened, and what could be done to correct the matter. Also, to ensure that any lessons learnt could be identified and taken into account in future Order-making. Legal advice was taken to ensure that the Council was able to correct the errors as quickly as possible, by the most effective route, which is by way of variations to the Order.

The Council would like to be able to make these consequential variations to the Order as soon as practical, to provide clarity, certainty and accuracy. Therefore, for the purposes of Regulation 10 to the Regulations, and Rule 15 of the ATIR, it would be impractical and unnecessary to have to wait until the December meeting of the Cabinet in order to do so, and the preference is to take a report to the Cabinet meeting on 3 November 2020 so as to resolve this matter.

Further, for the purposes of Rule 16 of the ATIR, the Report is urgent so that the errors can be remedied as soon as possible. The Report cannot reasonably be deferred to December 2020 because to do so would delay resolving this matter, which would serve no purpose in terms of rectifying the Order, so as to provide clarity, certainty and accuracy.

In the light of the above we wish to expedite the Cabinet process and avoid having to delay a decision until the December Cabinet.

It is deemed important that Cabinet considers this decision as soon as possible.

Regulation 10 of the Regulations (General Exception) allows for a key decision to be made if it is impracticable for notice of the intention to take a key decision under Regulation 9 to be given 28 clear days in advance of the taking of the decision.

Regulation 10 sets out the actions required to be taken in those circumstances which includes setting out the reasons for General Exception.

This Notice has not provided the relevant 28 days. However, in accordance with Regulation 5(6) of the Regulations where the Chairman of the Scrutiny Committee considers that there is urgency which dictates that this decision is urgent and cannot be reasonably deferred to allow compliance with Regulation 5 the decision may still be taken.

The Chairman of the Scrutiny Committee has been notified that the making of the key decision in private detailed below is urgent and cannot reasonably be deferred and has agreed for it to proceed. The reason for this is as set out below.

The report contains information relating to the financial and business affairs of the Council and third parties. It is impractical to delay the decision as the Council has been made aware recently of an opportunity to purchase the freehold interest in land in Leiston. The acquisition would optimise future development options.

The reason why the matter is to be considered in private is that it includes information relating to Information Relating to an Individual and The financial or business affairs of any particular person (including the authority holding that information) (Paragraphs 1 and 3 – Schedule 12A of the Local Government Act 1972).

Hilary Slater
Head of Legal and Democratic Services (Monitoring Officer)
23 October 2020