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| <b>ACQUISITION OF FREEHOLD INVESTMENT PROPERTY IN PETERBOROUGH</b> |
| <b>COUNCILLOR DAVID SEATON, CABINET MEMBER FOR RESOURCES</b>       |
| <b>January 2017</b>  |
| <b>Deadline date:</b> 31 January 2017                              |

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| Cabinet portfolio holder:<br>Responsible Director:                       | Councillor David Seaton, Cabinet Member for Resources<br>Simon Machen, Corporate Director Growth and Regeneration  |
| Is this a Key Decision?  | YES<br>If yes has it been included on the Forward Plan : No - Urgency procedures have been invoked.<br>Unique Key decision Reference from Forward Plan : N/A   |
| Is this decision eligible for call-in?                                   | NO – Suspension of call-in procedures have been invoked.   |
| Does this Public report have any annex that contains exempt information? | The exempt annex is NOT FOR PUBLICATION by reason of paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972. This is because the information is considered to be commercially confidential until such a point that the transaction is complete and information can be disclosed. To disclose this could risk the Council putting its agreed terms for the purchase in the public domain in breach of the terms of the agreed confidentiality clause and as a consequence the transaction at risk as other interested parties may be able to equal or overbid. The public interest test has been applied to the exempt information and it is considered that the need to retain the information as exempt at this stage outweighs the public interest in disclosing it. |
| Is this a project and if so has it been registered on Verto?             | NO   |

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| <b>RECOMMENDATIONS</b>   |
| <p>The Cabinet Member is recommended to:</p> <ol style="list-style-type: none"> <li>1. Approve the purchase of the freehold of the property which is subject to a lease to a third party who are in occupation, as set out in the exempt annex; and</li> <li>2. Delegate authority to the Corporate Director of Growth and Regeneration to approve the terms of the purchase and proceed to contract in consultation with the Cabinet Member for Resources.</li> </ol> |

## 1. SUMMARY OF MAIN ISSUES

- 1.2 The Council has negotiated to purchase the freehold of the subject land which is currently let to a third party on a lease. The Council's consent is required to contract on the agreed terms to effect the purchase.
- 1.3 The Council has been requested to keep the details of the matter confidential as the property is being purchased within the competitive property market and the agreed heads of terms includes a confidentiality clause and timescale to ensure that the deal can proceed without third party interference. If the Council chose not to do so it could result in another party coming forward and outbidding the Council prior to exchange/completion of the contracts. Information will become available once the matter has been concluded.
- 1.4 The recommendation in this Cabinet Member Decision Notice is to delegate authority to the Corporate Director of Growth and Regeneration who will consult with the Cabinet Member for Resources to proceed to contract with the vendor on the agreed heads of terms.

## 2. PURPOSE OF THIS REPORT

- 2.1 This report is for the Cabinet Member Resources to consider exercising delegated authority under paragraph 3.4.3 and 3.4.6 of Part 3 of the constitution in accordance with the terms of their portfolio at paragraph (f) and (i).
- 2.2 The information contained with the Appendix 1 (the exempt annex) is NOT FOR PUBLICATION in accordance with paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972. This is because the information is considered to be commercially confidential and further, subject to a confidentiality clause. The public interest test has been applied to the exempt information and it is considered that the need to retain the information as exempt at this stage outweighs the public interest in disclosing it.
- 2.3 Urgency, Special Urgency and Suspension of call-in procedures have been invoked in relation to this decision, as set out in the Council's constitution at Part 4, Section 7(6), Section 7 (7), and Section 8 (10.22) respectively. This is with the agreement of the Chairman of the Growth, Environment, and Resources Scrutiny Committee and the Monitoring Officer. The decision is urgent due to the deadlines agreed with the purchaser in this open market situation of the 31 January 2017. The suspension of call-in has been granted as a delay in the implementation of the decision would significantly prejudice the Council's interest in contracting within the agreed timescales.

## 3. TIMESCALE

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|---|-----------|---|------------|
| Is this a Major Policy Item/Statutory Plan? | <b>NO</b> | If Yes, date for relevant Cabinet Meeting | <b>N/A</b> |
|---|-----------|---|------------|

## 4. DETAILS OF DECISION REQUIRED

- 4.1 The Cabinet Member for Resources approves the recommendations to:
- 4.1.1 The purchase of the freehold of the property which is subject to a lease to a third party who are in occupation, as set out in the exempt annex.
- 4.1.2 Delegate authority to the Corporate Director of Growth and Regeneration to approve the terms of the purchase and proceed to contract in consultation with the Cabinet Member for Resources.

## **5. CONSULTATION**

- 5.1 Consultations have taken place with the senior officers responsible for finance, operational services and property matters together with the Council's Director of Governance and Senior Democratic Services officers. Ward Councillors have been consulted.

## **6. ANTICIPATED OUTCOMES**

- 6.1 *To purchase a new asset to be held on the Councils Investment portfolio the details of which are in the exempt annex.*

## **7. REASONS FOR RECOMMENDATIONS & ANY RELEVANT BACKGROUND INFORMATION**

- 7.1 *The asset is being purchased using the invest to save policy and is likely to become operational for the benefit of a Council service at the end of the current lease to a third party.*

## **8. ALTERNATIVE OPTIONS CONSIDERED**

- 8.1 The following options were considered and rejected as appropriate:
- 8.1.1 Option 1: Do nothing – The Council can choose not to purchase the asset on the open market on the agreed terms and conditions. The asset has an acceptable return on investment and the Invest to Save Policy is applicable in this instance.
- 8.1.2 Option 2: Reject the proposals set out in Recommendation 1 of this report – This option is open to the Council but to do so would prevent the purchase from progressing to contract and the owner will place the property back on the open market or proceed with any under-bidder.
- 8.1.3 Option 3: Agree to the proposal – the preferred and recommended option.

## **9. IMPLICATIONS**

### ***Constitutional Issues***

- 9.1 *The Council's ability to deal with land under executive powers arises from sections 120-123 of the Local Government Act 1972.*

### ***Legal Implications***

- 9.2 *The land is being purchased pursuant to s120 Local Government Act 1972 120 which enables a local authority to purchase land for the purposes of any of their functions. S120 (2) confirms that it does not matter that the land is not immediately available for that purpose and as such the Council can purchase the land now with a view to using the land for its own purposes in future.*

*Pursuant to s123 Local Government Act 1972 the Council can lease its assets provided that it obtains best value. The rent payable by the leases represents best value and therefore the Council can continue to rent the property pending its own use of the land.*

### ***Financial Implications***

- 9.4 *The purchase will be funded from the Council's "Invest to Save" capital programme budget. The costs of financing will be covered from the lease income due in respect of the site, as set out in the exempt Annex.*

***Procurement Implications***

- 9.5 *None. The Council is able to acquire property interests on the open market.*

**10. DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED**

- 10.1 None.

**11. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

- 11.1 None.