

DECISION TITLE: Delegations for Reserved Matters relating to Peterborough Limited
Councillor Dennis Jones, Leader of the Council
August 2024
Deadline date: ASAP

Cabinet portfolio holder: Responsible Director:	Councillor Dennis Jones, Leader of the Council Adrian Chapman – Executive Director for Place and Economy.
Is this a Key Decision?	Yes Forward Plan number: KEY/26AUG24/04
Is this decision eligible for call-in?	Yes
Does this Public report have any annex that contains exempt information?	NO

RECOMMENDATIONS

The Cabinet Member is recommended to:

1. For a period of 12 months, delegate authority to the Executive Director for Place and Economy, in consultation with the Director for Legal and Governance (Monitoring Officer), the Executive Director for Corporate Services (Section 151 Officer), the Cabinet member for Housing and Communities (if the matter relates to leisure and culture services) and the Cabinet Member for Environment and Transport (if the matter relates to Aragon services), to determine all decisions reserved to the Council as shareholder of Peterborough Limited.

1.	PURPOSE OF THIS REPORT
1.1	<p>This report is for the Leader of the Council to consider exercising delegated authority under paragraph 3.2.17(g) <i>The determination of decisions reserved to the Council as shareholder or member of a company, partnership or charity</i>; of Part 3 of the constitution in accordance with the terms of their portfolio at paragraph 3.4.3, <i>To exercise the Executive powers and duties of the Council for strategic development, policy direction, partnership working, time-critical, operational, or routine key decisions, and programme and performance management, in accordance with the council’s procedure rules, for their portfolio areas.</i></p> <p>The nature of this decision is time critical to ensure that Peterborough Limited’s day-to-day activity is not delayed unnecessarily.</p>

2.	TIMESCALES		
	<table border="1" data-bbox="284 219 946 293"> <tr> <td data-bbox="284 219 756 293">Is this a Major Policy Item/Statutory Plan?</td> <td data-bbox="756 219 946 293">NO</td> </tr> </table>	Is this a Major Policy Item/Statutory Plan?	NO
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3.	BACKGROUND AND KEY ISSUES		
3.1	<p>Peterborough Limited (PL) is a wholly owned Local Authority Trading Company (LATCo) that was established in February 2019. PL deliver a range of services for the council, including: waste collection, street scene, property maintenance and culture and leisure services.</p> <p>As a wholly owned company, certain matters are reserved to the Council for approval, as sole shareholder. These ‘reserved matters’ are as approved within (and appended to) the Cabinet decision SEPT20/CAB/30 (linked below). The Council’s constitution confirms that Cabinet is the decision-maker in relation to determining decisions regarding reserved matters pursuant to Part 3, Section 3, paragraph 3.2.17(g).</p> <p>Peterborough Limited is required to prepare a Business Plan to be approved by the council. In addition to providing an overview of the company’s operations, the Business Plan also provides an opportunity for PL to request approval of any particular reserved matters within the Business Plan (thereby avoiding the need to approach Cabinet separately for determination of specific actions subsequently).</p> <p>PL do not have in place a current, approved Business Plan and accordingly would need to approach Cabinet for determination of any matters which relate to reserved matters. This could relate to decisions regarding PL recruitment/employees, contracts, annual accounts, litigation etc.</p> <p>Approaching Cabinet for determination on each occasion takes time (for the forward plan, the report drafting and approvals, aligning with Cabinet dates) and situations may arise whereby PL need to act swiftly and need its shareholder to consider a request for determination of a reserved matter urgently. Accordingly, in order to ensure that PL day-to-day activity is not delayed unnecessarily this report recommends that authority is delegated to the Executive Director for Place and Economy (in consultation as noted) to determine all decisions reserved to the Council as shareholder of PL for an interim period (during which time appropriate arrangements and processes can be considered, and potentially put in place, to ensure that such decisions can be made in the most efficient and effective manner moving forward) .</p> <p>PL will be required to provide relevant supporting information as requested by the Executive Director for Place and Economy to enable him to make an informed decision in relation to each reserved matter request.</p>		
4.	CORPORATE PRIORITIES		
4.1	<p>This directly links to the following corporate priorities:</p> <p>Sustainable Future City Council – by using new ways of working that will deliver value for money for the taxpayer and providing robust and transparent governance and assurance across all our work.</p> <p>The report contains no proposals for changes to service delivery and therefore there is no decision to take which may impact carbon emissions of the council or the city.</p>		
5.	CONSULTATION		

5.1	There are no consultations planned in relation to this decision.
6.	ANTICIPATED OUTCOMES OR IMPACT
6.1	<p>The delegation requested within this report will allow the Executive Director for Place and Economy (in consultation) to take decisions in relation to the reserved matters of PL, on behalf of the Council as shareholder.</p> <p>The delegation will relate to the determination of all decisions reserved to the Council as shareholder of PL, which will include any decisions which may involve actions which amount to 'key' decisions.</p>
7.	REASON FOR THE RECOMMENDATION
7.1	As detailed above, this recommendation has been made to ensure that PL are able to undertake activity, as required, without any delay arising as a result of a need to revert to Cabinet frequently for approval, and allows the relevant Director appropriate decision-making.
8.	ALTERNATIVE OPTIONS CONSIDERED
8.1	Officers considered not seeking this delegation but not to do so may require additional meetings of Cabinet to be arranged (to enable PL reserved matters to be determined when they arise) which is not felt to be in the best interest of the council or PL.
9.	IMPLICATIONS
	Financial Implications
9.1	There are no financial implications as a result of this report.
	Legal Implications
9.2	<p>PL was established to be "Teckal" compliant meaning that contracts for works, services and goods, awarded by the Council to PL are exempt from the requirement to carry out a procurement exercise (in accordance with regulation 12 of the Public Contracts Regulations 2015 and regulation 17 of the Concession Contracts Regulations 2016). This is subject to all grounds of the "Teckal" exemption being satisfied, which requires that the Council exercises "control" over PL (through share ownership and day to day control), there being no direct private capital participation in PL, and by more than 80% of PL's activities being carried out in the performance of tasks which the Council entrusts to it.</p> <p>The existence and operation of the 'reserved matters' are one mechanism by which the Council can exercise "control" of PL, as a Teckal company. The identity of the decision-maker within the Council (whether reserved matters are determined by Cabinet or individual officers) is irrelevant for the purposes of Teckal, and the decision sought by this report therefore has no impact on the operation of the Teckal exemption (provided that the Council controls PL).</p> <p>When exercising the delegation given within this report, an Officers Decision Notice (ODN) should be completed, outlining the specific determination being made under the reserved matters and containing sufficient information to explain the reasons for the decision being made. The outcome of the determination should also be communicated to PL to ensure that there is clarity regarding the extent (and any limitations) of any approval which may have been given.</p>

	Equalities Implications
9.3	There are no equality implications associated with this report.
10.	DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED
10.1	None
11.	BACKGROUND DOCUMENTS
11.1	<p>Cabinet Meeting, 17th December 2018. Item 4. https://democracy.peterborough.gov.uk/ieListDocuments.aspx?CId=116&MId=4214</p> <p>Peterborough Limited Articles of Association - SEPT20/CAB/30: https://democracy.peterborough.gov.uk/ieDecisionDetails.aspx?ID=1766</p>
12.	APPENDICES
12.1	None