



**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**COUNCIL**

**15 September 2021**

**Report of the Director of Legal & Democratic Services and Monitoring Officer**

**Decisions taken as a matter of Urgency and Key Decisions and Special Urgency**

## **1. Purpose**

- 1.1 In accordance with the provisions of the Constitution, to report to Council those executive decisions taken as a matter of urgency where 28 days' notice of the decision could not be given and where call-in has been waived.

## **2. Information and Analysis**

- 2.1 Members of Council will be aware that on occasion there is a necessity for decisions to be taken urgently, most recently predominantly as a result of the covid-19 pandemic and the need to respond to changing government guidance in a timely fashion.

### **Key decisions – Cases of special urgency**

- 2.2 Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, before the Council makes a key decision certain information needs to be published 28 clear days in advance. This is usually known as the 'Forward Plan'. The Regulations recognise that in the case of urgent decisions, this is not possible. As a result:

- a) where a key decision needs to be taken and publication of the information is impracticable, the decision can be made as long as five clear days' notice of the decision is given to the relevant Improvement and Scrutiny Committee Chairman; and
  - b) in cases of special urgency, a key decision can be taken with less than five clear days' notice if agreement is obtained from the Improvement and Scrutiny Committee Chairman that the making of the decision is urgent and cannot reasonably be deferred.
- 2.3 The Regulations require a report to Council at least once a year detailing each key decision taken where it was agreed that the special urgency provisions apply. The Access to Information Procedure Rules included in Appendix 6 to the Constitution requires this report to be submitted on a quarterly basis to full Council.
- 2.4 In accordance with the above requirement, Appendix 2 sets out the key decisions taken where special urgency provisions were agreed since the last report to Council.

### **Waiver of Call-in provisions**

- 2.5 Members will be familiar with the Council's Improvement and Scrutiny Procedure Rules included at Appendix 5 to the Constitution which sets out the call-in procedure. The call-in procedure does not apply where the executive decision being taken is urgent: that is where any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interest. In such cases call-in can be waived if the Chairman of the appropriate Improvement and Scrutiny Committee agrees both the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency.
- 2.6 The Improvement and Scrutiny Procedure Rules require such urgency decisions to be reported to the next available meeting of the Council, together with the reasons for urgency.
- 2.7 In accordance with the above requirements, details of urgent decisions where the call-in process was waived since the last report to Council and the reasons for urgency are set out in Appendix 3.

### **3. Alternative Options Considered**

- 3.1 Not to consider those executive decisions taken as a matter of urgency where 28 days' notice of the decision could not be given and where call-in has been waived; however, this is not recommended as this would not be in accordance with the Council's Constitution.

#### **4. Implications**

4.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

#### **5. Consultation**

5.1 Not applicable.

#### **6. Background Papers**

6.1 None.

#### **7. Appendices**

7.1 Appendix 1 – Implications.

7.2 Appendix 2 – Key decisions taken where special urgency provisions were agreed.

7.3 Appendix 3 - Details of urgent decisions where call in procedure was waived and the reasons for urgency.

#### **8. Recommendations**

That Council notes:

- a) the key decisions taken where special urgency provisions were agreed as detailed in Appendix 2; and
- b) the urgent decisions taken where the call-in procedure was waived under the Improvement and Scrutiny Procedure Rules as detailed in Appendix 3.

#### **9. Reasons for Recommendations**

9.1 In order to comply with the provisions in the Council's Constitution and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

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**Implications**

**Financial**

1.1 None.

**Legal**

2.1 As set out in the report.

**Human Resources**

3.1 None.

**Information Technology**

4.1 None.

**Equalities Impact**

5.1 None.

**Corporate objectives and priorities for change**

6.1 None.

**Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

7.1 None.

**Appendix 2. Key decisions taken where special urgency provisions were agreed  
2 July 2021- 3 September 2021**

<b>Subject of Decision</b>	<b>Decision Taken by and Date Taken</b>	<b>Decision Taken</b>	<b>Reason for Decision</b>	<b>Reason for Urgency</b>
Outline Business Case to Create an East Midlands Freeport	Cabinet Member for Strategic Leadership, Culture, Tourism and Climate Change  3 September 2021	To approve support for the submission of an Outline Business Case (OBC) to the Ministry of Housing, Communities and Local Government (MHCLG) to create a freeport in the Derbyshire, Nottinghamshire, Leicestershire area.  To delegate authority to the Executive Director - Place, in consultation with the Leader of the Council, to endorse the final Outline Business Case, ahead of submission to	All partners are required to affirm support for the Freeport to meet a key Government criteria for bid submission of the Outline Business Case	The timescales for preparing the Outline Business Case and submitting it to Government are extremely challenging. This has impacted on the time available for the Council to formally consider and endorse the proposal.

		<p>Government by 10 September 2021.</p> <p>To agree that a further report to consider the Full Business Case and any implications for the County Council be submitted to Cabinet for consideration, should the Outline Business Case bid be taken forward by Government.</p>		
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### Appendix 3:

#### Urgency decisions taken under the Improvement and Scrutiny Procedure Rules where call-in was waived

2 July 2021 - 3 September 2021

Subject of Decision	Decision Taken by and Date Taken	Decision Taken	Reason for Decision	Reason for Urgency
Outline Business Case to Create an East Midlands Freeport	Cabinet Member for Strategic Leadership, Culture, Tourism and Climate Change  3 September 2021	To approve support for the submission of an Outline Business Case (OBC) to the Ministry of Housing, Communities and Local Government (MHCLG) to create a freeport in the Derbyshire, Nottinghamshire, Leicestershire area.  To delegate authority to the Executive Director - Place, in consultation with the Leader of the Council, to endorse the final Outline Business Case, ahead of	All partners are required to affirm support for the Freeport to meet a key Government criteria for bid submission of the Outline Business Case	The timescales for preparing the Outline Business Case and submitting it to Government are extremely challenging. This has impacted on the time available for the Council to formally consider and endorse the proposal.

		<p>submission to Government by 10 September 2021.</p> <p>To agree that a further report to consider the Full Business Case and any implications for the County Council be submitted to Cabinet for consideration, should the Outline Business Case bid be taken forward by Government.</p>		
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