

NORTH YORKSHIRE COUNCIL
NOTICE OF URGENT PRIVATE ITEM

Access to Information Procedure Rules 4 and 15

**Decision regarding outcome of marketing exercise to procure a short term operator
for Alpamare Waterpark**

To the Chair of the Corporate and Partnerships Overview and Scrutiny Committee

The Council's Constitution provides that if a matter which is likely to be a key decision has not been included on the Council's Forward Plan for the requisite period, the decision may still be taken if an urgency procedure is followed.

Under Access to Information Procedure Rule 15:

- 15.1 *If the publication of the intention to make a key decision is impracticable and a matter which is likely to be a key decision has not been included in the forward plan for the requisite period as set out in Rule 13.2, then subject to Rule 16 (special urgency), the decision may still be taken if:*
- (a) *the Assistant Chief Executive (Legal and Democratic Services) has informed the Chairman of a relevant overview and scrutiny committee, or if there is no such person, each member of that committee by notice in writing, of the matter about which the decision is to be made;*
 - (b) *the Assistant Chief Executive (Legal and Democratic Services) has made copies of that notice available to the public at the offices of the Council and on the Council's website; and*
 - (c) *at least five clear days have elapsed following the day on which the Assistant Chief Executive (Legal and Democratic Services) complied with (a) and (b).*
- 15.2 *As soon as reasonably practicable after the Assistant Chief Executive (Legal and Democratic Services) has complied with (a) to (c) above, s/he must make available at the Council's offices a notice setting out the reasons why compliance with Rule 13.2 is impracticable and publish that notice on the Council's website.*

The Council's Constitution further provides that, under Access to Information Procedure Rule 4, at least 28 clear days' notice must be given of a private meeting (or meeting, or part of a meeting, during which the public are excluded) and, at least five clear days before the meeting, a further notice must be given of the intention to hold the meeting in private. The Access to Information Procedure Rules further provide that these provisions shall not apply where the decision being taken is urgent, if an urgency procedure is followed:

- 4.5 *Where the date by which a meeting must be held makes compliance with Rules 4.3 and 4.4 impracticable, the meeting may only be held in private where the executive decision making body has obtained agreement that the meeting is urgent and cannot reasonably be deferred from the chairman of the relevant overview and scrutiny committee; or, if there is no such person, or if s/he is unable to act, the chairman of the Authority; or where there is no chairman of either, the vice-chairman of the Authority.*
- 4.6 *As soon as reasonably practicable after agreement is given under Rule 4.5 to hold a private meeting, the executive decision making body must give notice*

setting out the reasons why the meeting is urgent and cannot reasonably be deferred by making the notice available at County Hall and at the venue for the meeting (if different) and publishing it on the Council's website.

It is anticipated that on 7 May 2024 a report regarding a decision on the outcome of the marketing exercise to procure a short term operator for Alpamare Waterpark will be considered by the Executive. The Council wishes to seek an operator to operate the site for a period of one year with an ability for an extension for a further year. This will enable the site to open in the short term and provide relevant information for a longer term strategy. The report will provide an update to the Executive on the marketing activity.

The intention to make this key decision has been published on the Forward Plan but not for the full, requisite 28 day period.

It is also likely that the report will contain exempt information as described in paragraphs 3 and 4 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended) (Information relating to the financial or business affairs of any particular person (including the authority holding that information and information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under the authority) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. It is therefore not possible to give the required 28 days' notice of the intention to hold this part of the meeting in private.

This matter requires a decision by the Executive on 7 May 2024 and cannot reasonably be deferred to enable the timely consideration and progress of this matter. This item has not been on the Forward Plan for a full 28 days prior to the proposed Executive decision as there is a desire to appoint an operator as soon as possible prior to the summer season, hence the need for this Notice under Access to Information Procedure Rules 4 and 15.

In accordance with the provisions in the Access to Information Procedure Rules, I am, therefore, informing you as the Chair of the Corporate and Partnerships Overview and Scrutiny Committee, that it is intended that this matter be determined by Executive on 7 May 2024 and I am seeking your agreement that the meeting in respect of this matter is urgent and cannot reasonably be deferred.

If you agree that the meeting in respect of this matter is urgent and cannot reasonably be deferred and that this item should be considered on 7 May 2024, will you please so confirm in writing as soon as possible.

BARRY KHAN
Assistant Chief Executive (Legal and Democratic Services)

Dated: 11 April 2024

I agree, for the reasons stated in this notice, that the meeting in respect of this matter is urgent and cannot reasonably be deferred and that this item should be considered on 7 May 2024.

Signed Cllr A Williams Date 11 April 2024
Chair of the Corporate and Partnerships Overview and Scrutiny Committee

