

## NORTH YORKSHIRE COUNTY COUNCIL

### Notice of Urgent Private Item (Access to Information Procedure Rules 4 and 15)

#### Super Fast North Yorkshire Phase 4

#### **To the Chairman of the Corporate and Partnerships Overview and Scrutiny Committee**

The County 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 County Council's Constitution further provides that at least 28 clear days before a private meeting (a meeting, or part of a meeting, of the executive decision making body during which the public are excluded) the executive decision-making body must give notice of its intention to hold the meeting in private (including a statement of the reasons for holding it in private) 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. At least five clear days before a private meeting, the executive decision making body must give further notice of its intention to hold the meeting in private including:

- a statement of the reasons for holding it in private;
- details of any representations received about why the meeting should be open to the public; and
- a statement of its response to any such representations

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.

In relation to urgent private business, where the date by which a meeting must be held makes compliance with the above Access to Information Procedure Rules 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. As soon as reasonably practicable after such agreement is given 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 13 October 2020 a report regarding "Super Fast North Yorkshire Phase 4" will be considered by the Executive. Phase 4 of the SFNY Project is aimed at targeting rural premises through a Competitive Procedure with Negotiation. The Executive will be asked to approve the Council entering into a contract with NYNET and the bidder who wins the procurement exercise; and to approve the financial approach (this project is being funded by approximately £12.5m of NYCC money – a combination of overage from Phase 3 and NYCC capital funding).

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 and/or appendices may contain exempt information as described in paragraphs 1 and 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended) (information relating to individuals and to the financial or business affairs of any particular person (including the authority holding that information)) 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 13 October 2020 and cannot reasonably be deferred to enable the timely consideration and progress of this matter and to meet project deadlines, 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 Chairman of a relevant Overview and Scrutiny Committee, that it is intended that this matter be determined by the Executive on 13 October 2020 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 13 October 2020, will you please so confirm in writing as soon as possible.

BARRY KHAN

Assistant Chief Executive (Legal and Democratic Services)

Dated: 25 September 2020

**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 13 October 2020**

**Signed** County Councillor Derek Bastiman

**Date** 25 September 2020

**Chairman of the Corporate and Partnerships Overview and Scrutiny Committee**