



EXECUTIVE

Date: Monday 28 February 2022
Time: 5.30 pm
Venue: Guildhall, High Street, Exeter

Members are invited to attend the above meeting to consider the items of business.

If you have an enquiry regarding any items on this agenda, please contact Mark Devin, Democratic Services Officer on 01392 265477.

Membership -

Councillors Bialyk (Chair), Wright (Deputy Chair), Foale, Ghusain, Harvey, Morse, Sutton, Williams, Wood, Leadbetter, Mitchell, K and Moore, D

Agenda

Part II: Items suggested for discussion with the press and public excluded

Date of Next Meeting

The next scheduled meeting of the Executive will be held on **Monday 4 April 2022** at 5.30 pm in the Guildhall.

A statement of the executive decisions taken at this meeting will be produced and published on the Council website as soon as reasonably practicable.

Find out more about Exeter City Council services by looking at our web site <http://www.exeter.gov.uk>. This will give you the dates of all future Committee meetings and tell you how you can ask a question at a Scrutiny Committee meeting. Alternatively, contact the Democratic Services Officer (Committees) on (01392) 265115 for further information.

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Representations have been received in respect of items 10 and 11, in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, in that the items of business should be determined in the public section of the meeting for the following reasons:-

- (1) Item 10 - Exeter City Living Business Plan 2022-2023:** To receive the report on the Business Plan activity for Exeter City Living Ltd for the financial year 2022-2023 as per <https://committees.exeter.gov.uk/mglssueHistoryHome.aspx?Ild=49393&PlanId=238&RPID=12340057>.

"This item should be heard in public as it relates to proposed development by Exeter City Living Limited for which Exeter City Council, as both local planning authority and owner of Exeter City Living Limited, may grant itself planning permission or permission in principle pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

"As such, Paragraph 9 of Part 2 of Schedule 12A of the Local Government Act 1972 prevents this information from being exempt information by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, and should be disclosed to the public.

"The scope of Paragraph 9 is not restricted to applications for planning permission, but to all information which relates to proposed development for which the local planning authority may grant itself planning permission.

"This includes descriptions of all aspects of development, whether relating to operational or financial matters, including development delivery in general as well as on particular sites, insofar as the information relates to development which is expected to take place within the boundaries of the area for which Exeter City Council is the responsible planning authority and which the city council and/or its subsidiary companies and/or their contractors is expected to deliver.

"Paragraph 10 of Part 2 of Schedule 12A of the Local Government Act 1972 does not apply to this information as it is prevented from being exempt by virtue of Paragraph 9.

"As the explanation given in Exeter City Council's Executive forward plan confirms, the public interest test described in Paragraph 10 only applies to the application of an exemption to information which falls in any of paragraphs 1 to 7 of Schedule 12A of the Local Government Act 1972, which includes Paragraph 3, information relating to the financial or business affairs of any particular person (including the authority holding that information), if that information is not prevented from being exempt by virtue of paragraphs 8 or 9.

"As the information is prevented from being exempt by virtue of Paragraph 9, a public interest test does not apply and the information cannot be exempt.

"Any decision taken by Exeter City Council Executive to hear this item in private may mean that subsequent decisions taken in respect of this item would be unlawful and ineffective, may amount to maladministration, and may be subject to challenge through legal proceedings by any person affected by the decision, or by intervention by the external auditor, thereby placing Exeter City Council at risk."

(2) Item 11 - A Business Case for the Creation of a Residential Property Company:

To receive the report on the Business Case for the formation of a Residential Property Company to provide market rent accommodation leased on behalf of Exeter City Council as per

<https://committees.exeter.gov.uk/mglssueHistoryHome.aspx?Id=49392&PlanId=238&RPID=12340057>.

"This item should be heard in public as it relates to proposed development by a residential property company for which Exeter City Council, as both local planning authority and prospective owner of that residential property company, may grant itself planning permission or permission in principle pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

"As such, Paragraph 9 of Part 2 of Schedule 12A of the Local Government Act 1972 prevents this information from being exempt information by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, and should be disclosed to the public.

"The scope of Paragraph 9 is not restricted to applications for planning permission, but to all information which relates to proposed development for which the local planning authority may grant itself planning permission.

"This includes descriptions of all aspects of development, whether relating to operational or financial matters, including development delivery in general as well as on particular sites, insofar as the information relates to development which is expected to take place within the boundaries of the area for which Exeter City Council is the responsible planning authority and which the city council and/or its subsidiary companies and/or their contractors is expected to deliver.

"Paragraph 10 of Part 2 of Schedule 12A of the Local Government Act 1972 does not apply to this information as it is prevented from being exempt by virtue of Paragraph 9.

"As the explanation given in Exeter City Council's Executive forward plan confirms, the public interest test described in Paragraph 10 only applies to the application of an exemption to information which falls in any of paragraphs 1 to 7 of Schedule 12A of the Local Government Act 1972, which includes Paragraph 3, information relating to the financial or business affairs of any particular person (including the authority holding that information), if that information is not prevented from being exempt by virtue of paragraphs 8 or 9.

"As the information is prevented from being exempt by virtue of Paragraph 9, a public interest test does not apply and the information cannot be exempt.

"Any decision taken by Exeter City Council Executive to hear this item in private may mean that subsequent decisions taken in respect of this item would be unlawful and ineffective, may amount to maladministration, and may be subject to challenge through legal proceedings by any person affected by the decision, or by intervention by the external auditor, thereby placing Exeter City Council at risk."

Neither report relates to an application for planning permission. The first report concerns a business plan, with the second concerning a business case. Both reports contain information relating to the financial or business affairs of the respective companies, as described in paragraph 3 of Part 1 of Schedule 12 A to the Local Government Act 1972.

Paragraph 10 of Part 2 Schedule 12A of the Local Government Act 1972, states that information which falls into paragraphs 1-7 of Part 1 Schedule 12A of the Local Government Act 1972 is exempt information if, and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The proposed reasons for the exemption is that it is in the public interest to maintain the confidentiality of the company's business plan and business case respectively. The recommendation that these items are taken under Part 2, will be maintained.

In accordance with Regulation 5, Paragraph 5, Part 2 of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 concerning the procedures prior to private meetings, the details of the representations received have been included on the agenda with the statement of response to the representations. The agenda has been published with five clear working days ahead of the meeting, in line with legislation.

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