

Extraordinary Council

Agenda

To: All Members of the South Norfolk Council:

You are hereby summoned to attend a meeting of South Norfolk Council for the purpose of transacting the business set out in this agenda.

Yours sincerely

A handwritten signature in black ink, appearing to read "Trevor Holden", with a long horizontal flourish extending to the right.

Trevor Holden
Managing Director

Cllr James Easter (Chairman)

Cllr Yvonne Bendle (Vice-Chairman)

Date & Time:

Thursday, 13 April 2023
6.00 pm

Place:

Council Chamber - Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, NR7 0DU

Contact:

Claire White, tel: 01508 533669
Email: committee.snc@southnorfolkandbroadland.gov.uk
Website: www.southnorfolkandbroadland.gov.uk/

Public Attendance:

This meeting will be live streamed for public viewing via the following link:

<https://www.youtube.com/channel/UCZciRgwo84-iPyRImsTCIng>

If a member of the public would like to attend the meeting, please email committee.snc@southnorfolkandbroadland.gov.uk for further details.

AGENDA

The Council's Prayer

1. Apologies for absence

2. Declarations of Interest

To receive declarations of interest from Members (guidance attached).

(Pages 3 - 4)

3. The Sale of the South Norfolk House Site

Please note that a public briefing note is attached relating to the sale of the South Norfolk House site.

(Pages 5 - 6)

The full report is NOT for PUBLICATION by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

(Pages 7-20)

4. Exclusion of the Public and Press

To exclude the public and press from the meeting under Section 100A of the Local Government Act 1972 on the grounds that it will involve the disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Act (as amended)

DECLARATIONS OF INTEREST AT MEETINGS

When declaring an interest at a meeting Members are asked to indicate whether their interest in the matter is pecuniary, or if the matter relates to, or affects a pecuniary interest they have, or if it is another type of interest. Members are required to identify the nature of the interest and the agenda item to which it relates. In the case of other interests, the member may speak and vote. If it is a pecuniary interest, the member must withdraw from the meeting when it is discussed. If it affects or relates to a pecuniary interest the member has, they have the right to make representations to the meeting as a member of the public but must then withdraw from the meeting. Members are also requested when appropriate to make any declarations under the Code of Practice on Planning and Judicial matters.

Have you declared the interest in the register of interests as a pecuniary interest? If Yes, you will need to withdraw from the room when it is discussed.

Does the interest directly:

1. affect yours, or your spouse / partner's financial position?
2. relate to the determining of any approval, consent, licence, permission or registration in relation to you or your spouse / partner?
3. Relate to a contract you, or your spouse / partner have with the Council
4. Affect land you or your spouse / partner own
5. Affect a company that you or your partner own, or have a shareholding in

If the answer is "yes" to any of the above, it is likely to be pecuniary.

Please refer to the guidance given on declaring pecuniary interests in the register of interest forms. If you have a pecuniary interest, you will need to inform the meeting and then withdraw from the room when it is discussed. If it has not been previously declared, you will also need to notify the Monitoring Officer within 28 days.

Does the interest indirectly affect or relate any pecuniary interest you have already declared, or an interest you have identified at 1-5 above?

If yes, you need to inform the meeting. When it is discussed, you will have the right to make representations to the meeting as a member of the public, but you should not partake in general discussion or vote.

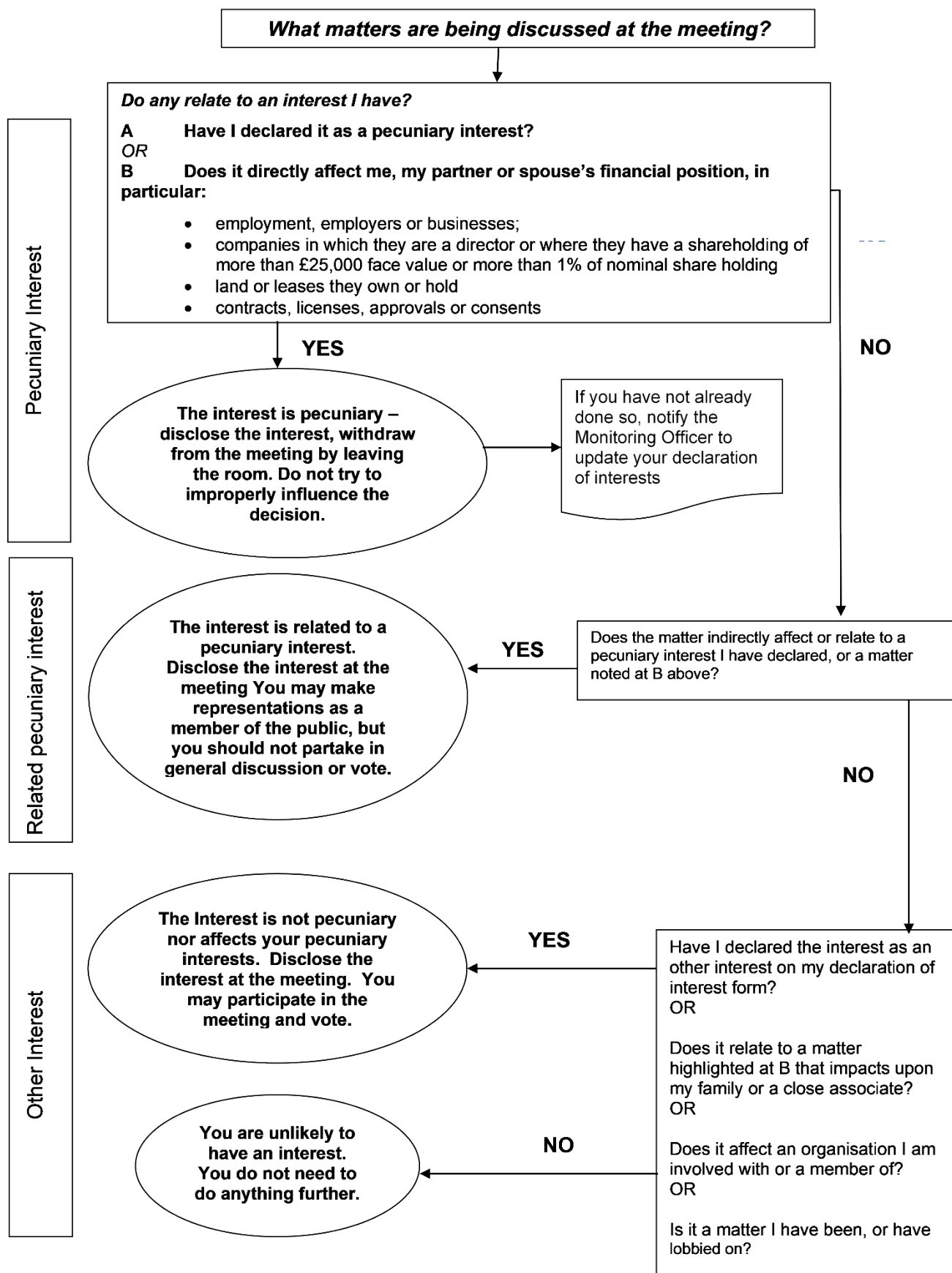
Is the interest not related to any of the above? If so, it is likely to be an other interest. You will need to declare the interest, but may participate in discussion and voting on the item.

Have you made any statements or undertaken any actions that would indicate that you have a closed mind on a matter under discussion? If so, you may be predetermined on the issue; you will need to inform the meeting, and when it is discussed, you will have the right to make representations to the meeting as a member of the public, but must then withdraw from the meeting.

FOR GUIDANCE REFER TO THE FLOWCHART OVERLEAF.

PLEASE REFER ANY QUERIES TO THE MONITORING OFFICER IN THE FIRST INSTANCE

DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF



Briefing Note for Members in relation to the decision on the sale of the South Norfolk House Site

To assist Members in coming to a decision on the bids which have been received in relation to the South Norfolk House site, Officers have sought legal advice on what factors can be taken into consideration in making that choice. The full advice is attached in the appendix to the main report but is précised below for both Members and the public.

1.1 Local authorities are given powers under the Local Government Act 1972 to dispose of land in any manner they wish, including sale of their freehold interest, granting a lease, or assigning any unexpired term on a lease, and the granting of easements. The only constraint is that a disposal must be for the best consideration reasonably obtainable (except in the case of short tenancies), unless the Secretary of State consents to the disposal (section 123, LGA 1972).

1.2 The duty to obtain the best price does not require the highest offer to be invariably accepted, regardless of who makes it and when it is made. The best consideration is based on all the commercial terms of the offers, as best consideration is not limited to the purchase price.

Other commercial elements such as conditions applied to the offer, length of time for sale proceeds to be received are some of the other aspects that can be taken into account.

1.3 However, anything other than commercial elements of the offers cannot be taken into account when calculating best consideration, including those which do not have a direct commercial or monetary value to the Council such as: -

- Job creation.
- Social value – i.e., improved visitor numbers to a particular area.
- Using the land for a particular desirable purpose

1.4 A subsequent amendment to the Local Government Act 1972: General Disposal Consent 2003 ("the Consent"), removes the requirement for authorities to seek specific consent from the Deputy Prime Minister and First Secretary of State ("the Secretary of State") for any disposal of land where the land or property is sold "undervalue" and the difference is £2,000,000 or less between the unrestricted value of the interest to be disposed of and the consideration accepted.

1.5 In other words, if a decision was made to sell South Norfolk House for less than the best consideration then this would be seen as sold “undervalue” and Members could take into account other factors that do not have a direct commercial or monetary value such as the ones listed in 1.3 as they are “social, economic or environmental benefits” which may arise from the disposal.

1.6 However, a decision to sell “undervalue” would then need to comply with the UK’s Subsidy Control regulations (the replacement of the European Commission’s State aid rules).

When disposing of land at less than best consideration authorities are providing a subsidy to the owner, developer and/or the occupier of the land and property, depending on the nature of the development.

While the minimal financial assistance (MFA) allows public authorities to award low-value subsidies (up to £315,000) without the need to comply with the majority of the subsidy control requirements. Any subsidy over £100,000 are also subject to the transparency rules requiring them to be reported which may include information of a commercially sensitive nature to the beneficiaries of subsidies or schemes. Failure to comply with the rules means that the aid is unlawful and may result in the benefit being recovered with interest from the recipient and also a claim from other parties who may have submitted better commercial terms. There would also be reputational damage too.

1.7 Officers have also sought legal advice as to whether the Council’s Best Value Duty could allow Members to take other factors into account such as other financial benefits in coming to a decision. However, the legal advice is that the Council’s Best Value Duty is “to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.” This means that authorities should consider overall value when reviewing service provision.

The sale of Council commercial property is not an arrangement to secure improvement of services. The appropriate power under which a decision to sale the South Norfolk House site is therefore the power of sale under s123 Local Government Act 1972

1.8 For the reasons given above the Legal advice is to only take into consideration the best commercial offer in coming to a decision.

Contact Officer:

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