

WEST NORTHAMPTONSHIRE COUNCIL CABINET

14th JUNE 2022

**LEADER AND CABINET MEMBER RESPONSIBLE FOR STRATEGY:
COUNCILLOR JONATHAN NUNN**

Report Title	Decision taken by the Leader of the Council under urgency procedures: Disposal of 22 Le Brun Road, Eastbourne, BN21 2HZ
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Contributors/Checkers/Approvers

West MO	Catherine Whitehead	06/06/2022
West S151	Martin Henry	
Other Directors/Officers	Simon Bowers – Assistant Director Assets and Environment Stuart Timmiss – Executive Director Place, Economy & Environment	

List of Appendices

Appendix A: Record of Decision by the Leader in relation to the disposal of the property known as 22 Le Brun Road, Eastbourne.

1. Purpose of Report

- 1.1. This report seeks to notify Cabinet of the decision taken by the Leader of the Council to dispose of the property known as 22 Le Brun Road, Eastbourne.

2. Executive Summary

- 2.1 The Local Government Act 2000 Section 9E provides that the Leader of the Council can take any executive decision alone or with his Cabinet. In West Northants the vast majority of Executive decisions, not otherwise delegated, are taken collectively by the Leader and Cabinet together but in cases of urgency the Leader of the Council can take decisions where it is necessary to avoid the delay of a Cabinet meeting.
- 2.2 Because the council is subject to an order of the court to dispose of the property, and there is therefore very little discretion and because there is a need for urgency to allow the sale to proceed the Leader of the Council has made a decision in relation to the disposal of 22 Le Brun Road, Eastbourne.

3. Recommendations

- 3.1 That Cabinet note the decisions taken by the Leader of the Council set out at Appendix A.

4. Reason for Recommendations

- 4.1 Where decisions that would otherwise be taken by the Leader and Cabinet have been taken by the Leader alone, in the interests of transparency, the decision is reported to the next available meeting of the Cabinet.
- 4.2 The decision taken provided the authority for the Council to exchange and complete on the above property which was subject to a short timescale.
- 4.3 Full reasons for the decision taken are set out in the decision records appended to this report.

5. Report Background

- 5.1 Northampton Borough Council (NBC) advanced £10.25m to Northampton Town Football Club (NTFC) to carry out works to improve the stadium facilities at Sixfields (£9m) and to develop a hotel at Sixfields (£1.25m).
- 5.2 The funds were advanced to NTFC by NBC by way of facility agreement. NTFC unilaterally passed these funds to 1st Land Limited. This latter company was placed in Administration

after failing to pay its Contractor, Buckingham Group Contracting Limited. Despite robust questioning of various parties at that time, NBC was unable to trace all the funds associated with the loan.

- 5.3 NBC was successful in tracing some of the funds through David Cardoza to a property owned by his wife Christine Cardoza. In this case, as it was possible to trace the funds, NBC pursued the Cardoza's through the High Court and at a hearing dated 24th January 2019, the court enabled NBC to register a charge against the property.
- 5.4 On the 29th November 2019 Mr Justice Rouine granted an Order against Christina Loraine Cardoza to secure the sums as set out in 7.1.2. Mrs Cardoza had until 2nd June 2021 to pay the sum as set out in 7.1.2.
- 5.5 On 1st April 2021 responsibility for pursuing the debt and the benefit of the court order passed to West Northants Council under transition provisions.
- 5.6 Mrs Cardoza failed to make payment by the due date and therefore WNC prepared for possession proceedings in relation to the property. Agreement was reached with Mrs Cardoza to allow her to leave the property on 10th August 2021 to avoid the need for possession proceedings. West Northants Council took possession of the property and as required by the court order, marketed the property for sale in order to meet the existing charge to Barclays Bank and the outstanding debt ordered by the court and interest.
- 5.7 The property was marketed with a local estate agent and an offer was received and accepted by the Assistant Director Assets and Environment subject to a Cabinet decision. Waiting for a Cabinet decision once the sale was ready to go through would risk losing the offer and sale and would incur further interest against the existing charge to Barclays Bank. The decision was therefore made on an urgent basis by the Leader of the Council.

6. Issues and Choices

- 6.1 The decision taken was necessary in order to sign off the proposed paperwork to enable the sale to progress and the Council to receive funds from this sale, in accordance with the buyers timeframe and to avoid losing the sale.
- 6.2 The sale was subject to a court order and having taken possession the Council had no alternative but to sell the property. The Council were advised by external estate agents as to the value of the property in the Eastbourne area and the offer accepted was over the asking price.

7. Implications (including financial implications)

7.1 Resources and Financial

- 7.1.1 The Council has sold the above property for £765k.
- 7.1.2 As set out in the Order the Council were entitled to secure the sum of £365,975.97 plus costs and interest at £80.21 per day until completion of the sale.
- 7.1.3 There was also an existing charge on the property to Barclays Bank and this was settled for £300,244.82
- 7.1.4 The Council has therefore received £464,755.18 which will be returned to Council reserves to offset the outstanding debt.

7.2 **Legal**

The property was subject to a court order for sale to enable the Council and Barclays Bank to recover their debts. WNC will continue to take steps to recover the debt provided that it is economically sensible to do so. Other outstanding lines of enquiry relate to the proceeds of crimes within ongoing criminal proceedings and recovery through bankruptcy proceedings.

7.3 **Risk**

There are no risks in this decision, there would be a risk in delaying the decision which could have resulted in a lower receipt as the interest on the existing Barclays charge was continuing to accrue interest and that took priority over the Council's claim.

8. Background Papers

None

Appendix 1:

RECORD OF DECISION FORM

Name, job title, Directorate and Service of Decision Maker:	Leader of the Council
Subject matter:	Disposal of 22 Le Brun Road, Eastbourne, East Sussex, BN21 2HZ
Decision Taken:	<p>To delegate to the Assistant Director of Assets and Environment to complete the disposal of the property known as 22 Le Brun Road, Eastbourne, East Sussex, BN21 2HZ for £765k</p> <p>To delegate to the Assistant Director of Assets and Environment authorise exchange and completion notwithstanding insufficient sale proceeds following the discharge of all charges and liabilities on the property under the Court Order.</p> <p>To delegate to the Assistant Director of Assets and Environment to pursue payment of any shortfall remaining from the proceeds of the sale as per the Order.</p>
Reasons for the Decision:	<p>In the High Court of Justice Chancery Division, Birmingham District Registry on the 29th November 2029 an order was made between Northampton Borough Council (Claimant) and Christina Loraine Cardoza (Defendant) to place an equitable charge upon the Defendant's interest in the property at 22 Le Brun Road, Eastbourne, East Sussex, BN21 2HZ to secure the sum of £365,975.97 plus costs and interest at £80.21/day until completion of the sale pursuant to a charging order made on 24th January 2019 in the Business and Property Courts in Birmingham (Case No. C30BM120). As per the Constitution the decision would have been made by the Cabinet but due to the timescales of the property transaction the Council expects to complete on this transaction by the end of April</p>

	2022. A report to advise Cabinet of this decision will be presented at a future date.
Date Decision Taken:	20/04/2022
Type of Decision:	Key Decision: Yes eligible for call-in: No
Documents, reports, etc considered as part of making the Decision:	See: Decision - Disposal of 22 Le Brun Road, Eastbourne, East Sussex, BN21 2HZ - West Northamptonshire Council (moderngov.co.uk)
Name of the Executive Member consulted (if applicable):	N/A
Any conflict of interest that has been declared by the Executive Member:	None
Does the decision maker have a registerable interest:	No
In relation to any such interest, has any dispensation been granted:	N/A
Wards affected:	None specific
Consultation undertaken (where applicable):	N/A
Any Legal, Financial, or Equality Implications considered:	Set out above.
If not the Decision Maker, the name and contact details of the officer to contact for background papers:	Judy Goodman judy.goodman@westnorthants.gov.uk