

Report to: Cabinet



Date of Meeting 2 February 2022

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

---

## **Exemption to Standing Orders - Appointment of Legal Assistance for Cranbrook Town Centre**

### **Report summary:**

To inform members of the appointment of Burges Salmon to act as legal advisors for the Council in drafting the Memorandum of Understanding associated with the town centre and subsequent linked S106 deeds of variation.

This appointment has been made as an exemption to Standing Orders. The completed approval form is appended to this report.

The agreement of the town centre Memorandum of Understanding is a key priority in the ongoing delivery of the new town of Cranbrook. Following the January 2021 decision of Cabinet to agree the overarching principles to be contained with the Memorandum of Understanding, it was determined that the Council's Legal Services did not have sufficient capacity to undertake the necessary negotiations and drafting required. Accordingly, and in the belief at the time that the undertaking would not be particularly onerous and costly, Burges Salmon were instructed to act for the Council. The solicitor instructed was previously used by the Council to draft the original S106 for Cranbrook and some of the subsequent deeds of variation. Accordingly, their appointment for this work was considered to be logical as the solicitor already has a working knowledge of the existing legal agreement, albeit there have been further deeds of variation to the agreement since their last involvement.

Since the original instruction of Burges Salmon it has become apparent that the drafting of the Memorandum of Understanding is more complicated than originally anticipated (largely due to the EDDC option to purchase land) and costs have exceeded where they were initially expected to be.

With the submission of planning applications for the developer led town centre development there is now a need to progress with the first deed of variation that will follow on from the Memorandum of Understanding, once complete. The developers of the scheme are keen to begin works as soon as possible and so undertaking the drafting of the Memorandum of Understanding and first deed of variation alongside one another is logical.

### **Is the proposed decision in accordance with:**

Budget                      Yes  No

Policy Framework      Yes  No

### **Recommendation:**

That Cabinet notes the attached Request for Exemption to Standing Orders approval form attached in respect of the appointment of Burges Salmon to provide legal assistance in the drafting of the Cranbrook town centre Memorandum of Understanding and associated S106 deeds of variation.

**Reason for recommendation:**

Due to the Council not having adequate available resource within Legal Services to undertake this work. Burges Salmon have previously been involved in the drafting of S106 agreements at Cranbrook and have a working knowledge of the existing agreement. The work is urgently required to facilitate the negotiation of the town centre Memorandum of Understanding and associated deeds of variation.

Officer: Thea Billeter, Cranbrook New Community Manager, [tbilleter@eastdevon.gov.uk](mailto:tbilleter@eastdevon.gov.uk), 01395 571687

---

Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Low Risk;

**Links to background information**

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

---

**Financial implications:**

To be completed by Finance.

**Legal implications:**

The contract value falls below the threshold set out in the Public Contracts Regulations 2015 and therefore the EU procurement procedure does not apply and an exemption can be validly relied upon pursuant to the Council's Contract Standing Orders Rule 3.2. The reason for using the exemption in this case appears justified.