

Notice of KEY Executive Decision

Subject Heading:	Disposal of land at 75 North Street Hornchurch to Mercury Land Holdings Limited and appropriation of land for planning purposes
Cabinet Member:	Councillor Roger Ramsay – Leader of the Council
SLT Lead:	Steve Moore – Director Neighbourhoods
Report Author and contact details:	Neil Dadswell Property Services Manager 2 River Chambers High Street Romford, RM1 1HR T: 01708 432566 E: neil.dadswell@onesource.co.uk
Policy context:	<ul style="list-style-type: none"> - Havering Housing Strategy - Havering Economic Development Strategy. - Havering Proposed Submission Local Plan 2017
Financial summary:	The Proposed disposal would result in a capital receipt. Further details are contained within the confidential appendix to this report.
Reason decision is Key	Expenditure or saving (including anticipated income) of £500,000 or more
Date notice given of intended decision:	14 January 2018

Key Executive Decision

Relevant OSC:	Overview & Scrutiny Board
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

The subject matter of this report deals with the following Council Objectives

Communities making Havering	<input checked="" type="checkbox"/>
Places making Havering	<input checked="" type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

That the Council appropriates the land edged red on the attached plan (sps2540) for planning purposes and disposes of the land to Mercury Land Holdings on the conditions set out in the confidential appendix attached.

Delegate to the Director of Asset Management (in consultation with the Director of Legal and Governance) the settlement of the final terms of the disposal of the land edged red (on the attached plan) to Mercury Land Holdings Limited and the execution of the appropriate legal agreement(s) to give effect to the disposal. This is subject to the sale price being no less than the price indicated in the confidential appendix attached.

AUTHORITY UNDER WHICH DECISION IS MADE

The decision is made by The Leader of the Council.

Under Part 3 Paragraph 2.1 (g), (h) and (r) of the Council's Constitution the Cabinet has authority:

(g) To allocate and control financial and land and property resources, to determine priorities in the use of these resources, and take any other action necessary to achieve those objectives.

(h) To have overall responsibility for acquisitions and disposal of any interest in land, buildings or the real and leasehold property of the Council and to have responsibility for land and property used for operational purposes, 'in principle', disposals of land in excess of £1,000,000 [with the Cabinet Member for Finance & Commerce having authority to agree the 'in principle' disposal of land etc., below that sum.]

(r) *To be responsible for all executive matters even if not expressly set out in Part 3 of this constitution.*

Under the "Strong Leader" model of governance adopted by the Council these functions can be exercised by The Leader of the Council acting for Cabinet.

STATEMENT OF THE REASONS FOR THE DECISION

The Council owns the freehold interest in the land shown edged red on the attached plan.

The principle of disposal was approved by Cabinet on 4 November 2015. The approval authorised the sale to the Council's Housing Development Company.

Following this decision, the Council's Housing Development Company – Mercury Land Holdings (MLH) pursued a planning application for 44 new residential dwellings on the site. The Regulatory Services Committee resolved to grant consent to the application subject to the satisfactory completion of a s106 agreement. MLH are unable to enter into such an agreement until they have a legal interest in the land.

Key Executive Decision

On 17 November 2017, Cabinet agreed, in principle, to the disposal of assets to MLH at best consideration and to provide further capital funding to MLH in respect of North Street and Quarles projects through a combination of equity investment and loans. Whilst the principle was agreed, the terms of the transaction were to be the subject of another decision.

On the basis that authority has previously been provided to dispose of the land at North Street to MLH for development, it is prudent for the Council to appropriate the land for planning purposes. Appropriation is a statutory process and the Council is authorised to appropriate land that it owns for planning purposes under Section 122 of the Local Government Act 1972 which, subject to a number of provisions, allows "a principle Council to appropriate land which belongs to the Council and is no longer required for the purpose for which it was held immediately before the appropriation...."

By formally appropriating the land for planning purposes the Council or any other person may – subject to Section 241 of the Town & Country Planning Act 1990 – develop the land in accordance with a planning permission.

It is the case that the Council should only propose to appropriate land for planning purposes if it has an intention to see the land used for development which promotes or improves the economic, social or environmental wellbeing of its area and believes that the appropriation is needed in order to facilitate or achieve any of these aims. In the case of this site, the Council does intend to see the land used for development and this decision authorises its appropriation for planning purposes.

Whilst the previous authorities have approved the principle of disposal to MLH, the appendix attached to this decision sets out the full terms and conditions upon which that disposal will now proceed and this decision authorises proceeding on this basis.

A previous decision delegated the agreement of disposal terms to the Head of Property but as this decision also now includes a recommendation to appropriate for planning purposes – which is not delegated – this decision (in its entirety) is now submitted for a Leader decision.

OTHER OPTIONS CONSIDERED AND REJECTED

This proposed disposal is in keeping with the Council's agreed approach to offer this development site to MLH at market value, so no other disposal or re-use option has been considered.

PRE-DECISION CONSULTATION

Section 151 Officer
Director of Legal & Governance – oneSource
Director of Asset Management - oneSource

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Part B - Assessment of Implications and risks

LEGAL IMPLICATIONS AND RISKS

The Council has the power under section 122 of the Local Government Act 1972 to appropriate land where it has the power to acquire land by agreement under any legislation. The Council has the power to acquire land by agreement under section 227 the Town and Country Planning Act 1990 for any purpose specified in section 226 of that Act.

The power to appropriate for planning purposes is subject to two relevant considerations.

Under section 226 of the Town and Country Planning Act 1990 the appropriation under that Act may only be exercised if the Council concludes that it will facilitate the carrying out of development on the land and that proposed development is likely to contribute the economic social or environmental well-being of the borough. In making this decision the Leader must conclude that the development of the 44 residential homes is likely to make such a contribution.

Another consideration is a requirement to advertise its intention if the land in question is an open space or common land. The land in question is neither common land nor an open space and therefore the requirement to advertise does not apply.

Section 123 of the Local Government Act 1972 gives the Council power to dispose of land held in its general fund (without consent of the Secretary of State) providing it does so for a price which is not less than the best it could reasonably obtain. The Council has obtained a market valuation of the site and intends to sell at that price which meets the qualification set out in section 123.

FINANCIAL IMPLICATIONS AND RISKS

Disposal of the site to Mercury Homes Limited will generate a capital receipt as indicated in the confidential appendix. This will be used by the Council to finance the initial equity/ Loan investment in Mercury Land Holdings to progress the North Street Development.

This will be subject of a further Executive Decision before the disposal of the site.

Disposal of the site and approval of the funding will need to be agreed on a simultaneous basis to protect both Mercury Land Holdings and the Council.

In the event that the site is not developed, there will be a clause in the agreement that the site will be offered to the Council before any other party at Market Value.

There is an overage clause to protect the Council financial interest if it does not repurchase the site over the first 10 years. Mercury will be able to deduct reasonable costs from the sale price before the overage clause comes into effect.

Key Executive Decision

Name:

Neil Dadswell

Designation:

Property Services Manager

Signature:



Date:

24/1/2018

Key Executive Decision

There is a possibility that the appropriation of the site may create a financial liability if loss of rights claims could be established by Third Parties. This is not anticipated to be significant. Compensation can arise if rights can be demonstrated but the potential for claims is low and considered to be of little or no monetary value.

**HUMAN RESOURCES IMPLICATIONS AND RISKS
(AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

There are no HR implications or risks arising directly that impact on the Councils workforce as a result of this decision.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

There are no equality implications.

BACKGROUND PAPERS

None

Key Executive Decision

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker

Signed

Rog Ramsey

Name: Councillor Roger Ramsey
Leader of the Council

Date: *1/2/18*

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Committee Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on *1/2/18*

Signed

[Signature]