

Notice of KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendices A to J are not available for public inspection as they contain or relate to exempt information within the meaning of paragraph no 3 of Schedule 12A to the Local Government Act 1972. They are exempt because they refer to commercial information, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Subject Heading:	Agreement of loan agreements for 75 North Street and approval to release funding to Mercury Land Holdings Limited
Cabinet Member:	Councillor Roger Ramsey Leader of the Council
SLT Lead:	Steve Moore, Director Neighbourhoods
Report Author and contact details:	Chris Hilton Assistant Director, Development. 01708 434844 Chris.hilton@havering.gov.uk
Policy context:	The establishment of the Housing Company was agreed in May 2015. The key rationales were to generate a financial return to the Council, contribute to the delivery of housing supply, ensure a right mix of housing for the borough and support the growth and regeneration needs of the Council.
Financial summary:	This report seeks approval to enter into the Loan agreement and approve the financing of this transaction, providing debt and equity to Mercury

Key Executive Decision – Part Exempt Report

	Land Holdings from the London Borough of Havering to acquire and develop 75 North Street
Reason decision is Key	(a) Expenditure or saving (including anticipated income) of £500,000 or more (b) In excess of 10% of the gross controllable composite budget at Head of Service/ Assistant Chief Executive level (subject to a minimum value of £250,000)
Date notice given of intended decision:	Monday 18 th December 2017
Relevant OSC:	Towns and Communities Overview and Scrutiny Committee.
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 type="checkbox"/>
Places making Havering	<input checked="" type="checkbox"/>
Opportunities making Havering	<input checked="" type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

1. Overview

The purpose of this report is to enact a delegation that was made by the November 2017 Cabinet relating to the S151 Officer in consultation with the Director of Legal and Governance agreeing the loan agreement and release of funding for 75 North Street, Hornchurch.

2. Background

In May 2015 Cabinet agreed to the incorporation of Mercury Land Holdings Limited to develop market rent and sale properties as a wholly owned subsidiary of the London Borough Of Havering.

In November 2017 Cabinet agreed that the Company should receive state aid compliant loans and funding from the Council subject to due diligence and agreement of inter alia heads of terms. It is proposed that this lending will provide a long term revenue stream (net of the Council's own borrowing costs) for the Council in the form of interest payments from the Company to the Council. In time this may be supplemented by dividend payments

Since the Cabinet meeting of November 2017 the Leader has agreed the MLH Business Plan and Business Case/Viability Statement for 75 North Street and subsequent approval of the Heads of Terms on the Loan Agreement.

This paper seeks the approval of the S151 Officer and Director of Legal and Governance, as delegated in the November 2017 Cabinet Report to approve the loan agreement and release of funding for 75 North Street being broadly consistent with the HoT on the Loan Agreement.

3. Recommendations

That the Deputy s151 Officer, as delegated by the Section 151 Officer, having consulted with The Director of Legal and Governance approves in the Council's capacity as shareholder insofar as it relates to 75 North Street and agrees subject to all Conditions Precedents being agreed by Officers to the funding commitment for the acquisition and associated costs of Mercury Land Holdings Limited acquiring 75 North Street, Hornchurch on behalf of the Council as lender and shareholder subject to proper due diligence and the proper exercise of the other powers delegated to officers and members set out in the November 2017 Cabinet Report

AUTHORITY UNDER WHICH DECISION IS MADE

The Cabinet report of 17 November 2017 made the following decisions:

That Cabinet:

1. Agree that the Leader of the Council after consultation with the Cabinet Member for Housing Company Development & oneSource Management, Director of Legal and Governance, the s151 Officer and the Director of Neighbourhoods and following completion of all due diligence will review and approve the detailed business plan and viability assessments relating to individual schemes within the business plan to enable them to proceed.
2. Agree in principle to provide further capital funding to MLH up to a maximum of £58.45m in respect of North Street and Quarles projects through a combination of equity investment and state aid compliant loans. This expenditure to be met from the capital budget for Regeneration and Development within the Approved Capital Programme to be funded from prudential borrowing.
3. Note the estimated gross income, capital financing costs and net income to be generated for the Council in relation to delivery of the MLH business plan as set out in section 7 of this report; and that subject to completion of due diligence, these sums will be used to update the MTFs prior to 2018/19 budget setting in February 2018.
4. Agree that the Leader of the Council after consultation with the Cabinet Member for Housing Company Development & oneSource Management, the Director of Legal and Governance and the s151 Officer will agree the Heads of Terms of all loan agreements.
5. Agree that the negotiation and finalisation of the loan agreements, provided they are broadly consistent with the Heads of Terms, and the decision to release funding subject to satisfactory financial due diligence, be delegated to the Section 151 officer in consultation with the Director of Legal and Governance.
6. Agree in principle to the disposal of assets (land/buildings) to MLH for best consideration except where it is possible for the Council to accept less than best consideration in which case the sum to be paid will be not less than market rate and delegate to the Director of Neighbourhoods, following consultation with the Director of Asset Management, the Director of Legal and Governance, and the Section 151 officer, authority to determine the principles and processes by which the said assets shall be disposed of and the terms of disposal.
7. Delegate to the Leader of the Council and Cabinet Member for Housing Development Company & oneSource Management after consultation with Director of Neighbourhoods and the s151 Officer, the exercising of the Council's rights as shareholder to give effect to the above recommendations.
8. Agree as a shareholder of MLH to the following changes to MLH's Board so it

Key Executive Decision – Part Exempt Report

consists of the following Council officers, as well as an external unconnected individual who has relevant experience in the house building sector, alongside MLH's own staff:

- a. Mercury Land Holdings Development Manager
- b. Mercury Land Holdings Project Manager
- c. Mercury Land Holdings Finance Officer
- d. Chief Executive London Borough of Havering (Managing Director of MLH)
- e. Head of Property Services, oneSource.

Independent expert with experience in the sector

This Key Decision is in relation to item 5

STATEMENT OF THE REASONS FOR THE DECISION

This decision is requested as state aid compliant loans and funding from the Council. This will provide a long term revenue stream for the Council in the form of interest payments from the Company to the Council and the financial objectives of the Council within the MTFS.

OTHER OPTIONS CONSIDERED AND REJECTED

A review of the alternative options of seeking to undertake funding from an alternative lender will not provide the Council with returns in the MTFS so this option was rejected. The do nothing option was also rejected as it would also not generate a return to the Council.

PRE-DECISION CONSULTATION

The s151 Officer in consultation with the Director of Legal and Governance and the Director of Neighbourhoods have been consulted through correspondence and meetings.

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

Name: Chris Hilton

Designation: Assistant Director of Development, Regulatory Services.

Signature:

Date:

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Council as lender has been advised by Trowers and Hamlin LLP who has drafted and provided advice on the Heads of Terms, state aid compliance and due diligence. These reports are included as an appendix

The November Report contained legal implications which are applicable to this decision

The November Report contained legal implications which are applicable to this decision, however, the following are of particular note:

Section 1 of The Localism Act gives the Council a power of general competence which enables it to set up a company. The Council has trading powers under Section 95 of the Local Government Act 2003.

FINANCIAL IMPLICATIONS AND RISKS

The November 2017 Cabinet Report contained financial implications and risks relevant to this report.

Additional information is included in the appendices.

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

Resource within the London Borough Of Havering and oneSource will be required to administer and monitor the loan over its repayment period. This decision will require the utilisation of Council Officers to assist in the development of the Loan Agreement and release of funds to Mercury Land Holdings and on-going monitoring. There will need to be significant resourcing for finance and legal officers properly to client the schemes set out in the business plan.

Resource has been allocated in the loan agreement documentation for this. Any additional people resources required will be funded from within the Loan Agreements and sourced via the Councils usual recruitment and/or agency worker processes

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

These are covered in the Housing Company Equality Impact Assessment document, and in the future policies the Housing Company will develop for lettings which will need to be Equalities Impact compliant.

BACKGROUND PAPERS

None

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None

APPENDICIES

Appendix A	Exempt Aspect of Executive Decision Report	Exempt
Appendix B	LB Havering State Aid Report	Exempt
Appendix C	Numeritas audit Report	Exempt
Appendix D	Land at North Street Hornchurch	Exempt
Appendix E	Indices on long term historic house price growth	Exempt
Appendix F	Extract of model	Exempt
Appendix G	North Street latest model	Exempt
Appendix H	Financial Due Diligence Report	Exempt
Appendix I	Financial model review of rates	Exempt
Appendix J	Legal Advice	Exempt

Part C – Record of decision

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

Decision

Proposal agreed

Proposal NOT agreed because

Details of decision maker

Signed

Name:

CMT Member Title: Deputy s151 Officer (as delegated by the s151 Officer)

Date:

Lodging this notice

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

For use by Committee Administration

This notice was lodged with me on 16/3/2018

Signed 