

## Notice of KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendix A is not available for public inspection as it contains or relates to exempt information within the meaning of paragraph 3 of Schedule 12A to the Local Government Act 1972. It is exempt because it refers to confidential commercial information and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

<b>Subject Heading:</b>	<b>Disposal of Council-owned sites to Mercury Land Holdings Ltd</b>
<b>Decision Maker:</b>	Assistant Director of Housing, Property & Assets
<b>Cabinet Member:</b>	Councillor Paul McGeary Cabinet Member for Housing & Property
<b>SLT Lead:</b>	Neil Stubbings Strategic Director of Places
<b>Report Author and contact details:</b>	Simeon Nnyombi- 01708 432573 Simeon.nnyombi@onesource.co.uk
<b>Policy context:</b>	Asset Disposal Programme 2022-2028 MLH Business Plan 2023-26 Medium Term Financial Strategy Havering Local Plan 2016-2031 London Plan 2021
<b>Financial summary:</b>	The proposals within this paper seek to support the Council's broader Capital Strategy by delivering capital receipts to support delivery of capital investment priorities whilst reducing the need for capital borrowing.
<b>Reason decision is Key</b>	Expenditure or saving (including anticipated income) of £500,000 or more

## Key Executive Decision – Part Exempt Report

<b>Date notice given of intended decision:</b>	28 <sup>th</sup> February 2024
<b>Relevant Overview &amp; Scrutiny Committee:</b>	Overview & Scrutiny Board
<b>Is it an urgent decision?</b>	No
<b>Is this decision exempt from being called-in?</b>	No

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

People - Things that matter for residents

Place - A great place to live, work and enjoy X

Resources - A well run Council that delivers for People and Place. X

### **Part A – Report seeking decision**

#### **DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION**

Pursuant to Cabinet decisions on 8<sup>th</sup> February 2023 and 9<sup>th</sup> August 2023 the Assistant Director Housing, Property and Assets in consultation with the Deputy Director of Legal and Democratic Services is recommended to:

- (1) Approve the disposal of the following Council-owned assets to Mercury Land Holdings Ltd on terms contained in the exempt appendices of this report:
  - a) Como St Car Park, RM7 7DN
  - b) Keswick Avenue Car Park, RM11 1XR
  - c) Dorrington Gardens Car Park, RM12 4HX
  - d) Angel Way Car Park, RM1 1HR
  - e) Former Century Youth House, Albert Rd, RM1 2PS
  - f) Land at Priory Rd, RM3 9AL

#### **AUTHORITY UNDER WHICH DECISION IS MADE**

The Cabinet decision on 8<sup>th</sup> February 2023 :

1. *Agreed the disposal of the larger sites contained in Appendix A (detailed above) of that report to Mercury Land Holdings Limited.*

## Key Executive Decision – Part Exempt Report

- 2. Delegated authority to the Director of Asset Management in consultation with the Deputy Director of Legal and Democratic Services to conduct all appropriate steps to progress and conclude the 2022/23 asset disposals in a manner that satisfies all legal/regulatory requirements. This delegation to include the terms for any interim lease-back of operational assets and/or subsequent buy-back of assets not subsequently progressed by Mercury Land Holdings*

A subsequent Cabinet decision on 9<sup>th</sup> August 2023:

- 1. Confirmed authority to the Assistant Director Housing, Property and Assets to dispose the car parks (listed above) having considered the outcome of a statutory consultation relating to their removal from the Council's off street parking, modification of Traffic Management Orders and pursuant to the Cabinet decision of 8 February 2023.*
- 2. Delegated authority to the Assistant Director Housing, Property and Assets in consultation with the Deputy Director of Legal and Democratic Services to conduct all appropriate steps to progress and conclude the asset disposals in a manner that satisfies all legal/regulatory requirements.*

### **STATEMENT OF THE REASONS FOR THE DECISION**

At its meeting on 8th February 2023, Cabinet agreed a medium-term asset disposal programme spanning 2022-2028, to provide a pipeline of capital receipts as an integral part of the council's wider Capital Strategy. Authority was granted for the disposal of a number of sites, including several sites intended for sale to Mercury Land Holdings Ltd (MLH), the Council's wholly owned housing company.

The disposal of these sites for an initial value of £8.69 million, would count towards the £20 million capital receipts earmarked for 31 March 2024.

The sites designated for disposal currently lack planning approval, necessitating investment in developing outline designs and submitting planning applications. Direct market disposal prior to planning could lead to suboptimal outcomes, as potential buyers may discount the value to mitigate risk and planning uncertainty. An alternative approach, where the Council directly invests in design and planning, is not viable due to the potential revenue implications.

To maximise the capital value of the sites, it has been necessary to undertake some preliminary design and planning work to secure planning consents. It is estimated to take between 12 to 18 months to secure a valid planning consent beyond the target date of 31 March 2024 for the disposals.

The February 2023 Cabinet report recognised that planning permission may not be secured for each site by the end of the 2023/24 financial year and in anticipation of this scenario set out proposals for an unconditional purchase by MLH by 31<sup>st</sup> March 2024, subject to an independent valuation to determine the interim purchase price. An overage provision is to be included within any disposal where planning permission is yet to be granted, enabling a balancing payment to be made to the Council at the point where planning consent is forthcoming. A final valuation would be undertaken at this point, with a further issue of share capital from MLH to the Council in recognition of any uplift in value.

## **Key Executive Decision – Part Exempt Report**

In the event planning is not secured, or the Council does not agree to the redevelopment of the site post planning, the Council would be obliged to buy back the land at its original value, along with reimbursing MLH in full for any abortive work undertaken.

The above proposals were approved by Cabinet as part of the February 2023 report.

A follow-up report to Cabinet on 9<sup>th</sup> August 2023 confirmed the proposed sale of 4 car park sites to MLH, provisionally agreed in February having considered the outcome of the statutory consultation process for their removal from the Council's off-street parking provision.

Terms have now been agreed for the disposal of the sites to MLH including the initial prices payable based on advice contained in Red Book valuations which have been commissioned.

### **OTHER OPTIONS CONSIDERED AND REJECTED**

*Seek disposal of the subject sites on the open market*

This option was dismissed as it would frustrate both the delivery of the MLH Business Plan objectives and efforts within the Council's Asset Disposal Programme to conclude the sale of sites in the current financial year.

### **PRE-DECISION CONSULTATION**

None relating to this specific funding decision

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

Name: Simeon Nnyombi

Designation: Strategic Asset Manager



Signature:

Date:08.04.2024

## **Part B - Assessment of implications and risks**

### **LEGAL IMPLICATIONS AND RISKS**

The Council has the power to dispose of the land under section 123 of the Local Government Act 1972 (“LGA 72”) subject to obtaining the best consideration reasonably obtainable. In exercising the delegated authority recommended by this report, the Assistant Director Housing, Property & Assets will be required to comply with this requirement.

### **FINANCIAL IMPLICATIONS AND RISKS**

This decision is seeking approval to dispose of the following Council-owned assets to Mercury Land Holdings Ltd on terms contained in the exempt appendices of this report:

- g) Como St Car Park, RM7 7DN
- h) Keswick Avenue Car Park, RM11 1XR
- i) Dorrington Gardens Car Park, RM12 4HX
- j) Angel Way Car Park, RM1 1HR
- k) Former Century Youth House, Albert Rd, RM1 2PS
- l) Land at Priory Rd, RM3 9AL

The disposal of these sites will result in initial receipts of £8.69m. The sites are being disposed in advance of securing valid planning consent with an overage/balancing payment to/from the Council once planning consent has been finalised.

MLH will issue share capital as consideration for the disposals.

Once MLH has completed the development and sale of the sites, the proceeds will be used to repay the loans extended to MLH to develop the land and the share capital issued as consideration for the purchase of the sites i.e. it is at this point that the capital receipts are converted from share capital (not usable) to cash (usable).

In summary, these disposals would deliver capital receipts in up to three tranches:

1. Initial disposal (pre-planning)
2. Post-Planning (start on site)
3. Overage (sales completion)

The sites being disposed of include off-street car parks, which would be leased back to the Council at a peppercorn rent, until planning is secured, and development is ready to proceed. This arrangement allows the Council to continue to benefit from car parking revenues, which are estimated to yield £190k net of costs per annum. Once timelines for re-development have been established there will be a need to build in any resulting impact on parking income into the Councils MTFS.

The redevelopment could result in a loss of income to the General Fund, which could be partially offset by an increase in parking income from nearby sites. A successful redevelopment of the car park would likely lead to increase in the number of homes in the borough leading to an increase in Council Tax revenues, and potentially savings against the homelessness budgets. The impact of which is likely to more than offset the loss of parking income.

The redevelopment of the sites by MLH is likely to take 2 to 3 years, at which point the share capital would be redeemed using the cash proceeds from a successful sale programme. The

## **Key Executive Decision – Part Exempt Report**

direct financial implications of taking forward the development of the disposal sites is set out in the Mercury Land Holdings, update to Business Plan 2022/23 Cabinet Report, approved by Cabinet on 19th July 2023.

### **Risks**

The maximisation and realisation of the capital receipt to the Council is subject to a number of risks including and not limited to the following .

1. Planning consent: without a valid planning consent it would not be possible to realise the full value of the sites. In such an event the Council would be obliged to buy back the land at its original value, along with reimbursing MLH in full for any abortive work undertaken.
2. Approved Tenure Mix: to optimise capital receipts, it would be necessary to ensure that the approved tenure mix seeks to maximise the number of private sale homes for resale, where possible.
3. Market / Economy: the wider economy is likely to have an impact on future sale values, and therefore Council coverage / receipts. Sales values are forecast to be stagnant for the next year to 18 months. In most instances it is unlikely that any homes for sale would be brought forward within this period. Construction costs have continued to escalate, which has the potential to erode future receipts.

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

There are no anticipated HR implications arising from the proposals within this decision

### **EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have 'due regard' to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

An EqHIA (Equality and Health Impact Assessment) is usually carried out when a current or planned service/policy/activity is likely to affect staff, service users, or other residents.

Some of the sites for proposed acquisition by MLH are no longer operational and have been declared surplus, meaning that there is no material impact upon groups with protected characteristics.

The proposed acquisitions include a number of car parks with varying levels of disabled parking provision within. Consideration has been given to the proximity and capacity of alternative disabled parking provision (provided by both the Council and others) within Romford and Hornchurch town centres in order to mitigate the impact of withdrawing the subject car parks

## **Key Executive Decision – Part Exempt Report**

from their current use. For the time being these facilities remain in operational use and a full EqHIA will be conducted in advance of any change of operational status.

### **HEALTH AND WELLBEING IMPLICATIONS AND RISKS**

There are no Health & Wellbeing risks specifically related to this funding decision

### **ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS**

Disposal of the proposed sites will not, in itself, generate any environmental or climate change implications. Subsequent development of the sites will be subject to seeking planning permission and building control approvals, the process for which will require the applicant to demonstrate how any potential impacts are addressed.

### **BACKGROUND PAPERS**

Report to Cabinet – 9<sup>th</sup> February 2023  
**Asset Disposal Programme 2022-2028**

Report to Cabinet – 9<sup>th</sup> August 2023  
**Site Disposals under the Asset Disposal programme 2022-2028**

### **EXEMPT APPENDIX**

**Sale Terms Agreed for the disposal of the Council-owned sites to MLH**

**Key Executive Decision – Part Exempt Report**

**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



Name: Mark Butler

Cabinet Portfolio held: Assistant Director, Regeneration & Place Shaping

Date: 8<sup>th</sup> April 2024

**Lodging this notice**

The signed decision notice must be delivered to Committee Services, in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on \_\_\_\_\_

Signed \_\_\_\_\_