



Notice of Non-key Executive Decision

Subject Heading:	Old Windmill Hall Disposal-Practical Completion
Cabinet Member:	Councillor Roger Ramsey – Value
SLT Lead:	Andrew Blake-Herbert
Report Author and contact details:	Simeon Nnyombi Principal Asset Surveyor 2 River Chambers High Street Romford RM1 1HR Tel: 01708 432573
Policy context:	Asset Management Plan
Financial Summary:	The financial aspects for the transaction are detailed in the <u>EXEMPT Appendix 1</u> to this Report
Relevant OSC:	Value
Is this decision exempt from being called-in?	Yes - because it is a Non-Key Executive Decision by a Member of Staff

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

- Communities making Havering [X]
- Places making Havering [X]
- Opportunities making Havering [X]
- Connections making Havering []

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

Background

At its meeting on 13 February 2013, Cabinet agreed the disposal of the Old Windmill Hall site.

Following the decision, the site was marketed and McCarthy & Stone were selected as the preferred purchaser on a subject to planning basis and a development licence was entered into. Under the terms of the licence, the developer agreed to pay the Council 90% of the agreed licence fee on the date that the contract became unconditional and the remaining 10% of the fee on practical completion. Completion of the freehold transfer to McCarthy and Stone can only occur once practical completion has occurred.

The developer has agreed a number of plot sales but these cannot progress before completion, which can only occur following practical completion of the construction and/or installation of all the following works to the development:

1. The structures of all buildings.
2. All external treatments and materials of all buildings.
3. The roofs of all buildings.
4. All external windows and doors being fitted (so that all buildings are wind and watertight).
5. Vacant possession of the compound being delivered to the landowner in accordance with the terms of the compound lease.
6. The fence or wall or other boundary treatments to all boundaries.

McCarthy & Stone anticipate that the practical completion items above will be complete by 31 October 2019. However, they are keen to complete the transfer as soon as possible in order that they can progress the pre-sales of plots.

The developer is proposing to complete the transfer notwithstanding that certain practical completion works remain outstanding on terms contained in the exempt appendix 1 of this report.

The intention of the conditional sale contract was for the Council to control the design and construction of the development. Given that the development has now been substantially constructed and the outstanding works relate mainly to highways and landscaping works the Council could proceed with the transfer to enable the pre-sale of plots by McCarthy & Stone.

The Technical services team have advised that the works are about about 85 to 90 percent of the definition of practical completion. The developer has allowed for a budget to cover the outstanding works under the terms of the agreement and the Technical Services department has advised that the sum is considered reasonable.

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Recommendations

It is recommended that –

1. The Principal Asset Surveyor, LBH oneSource - Property Services, in conjunction with the Director of Legal & Governance, oneSource, to take all necessary action to legally complete the transfer of the subject site to McCarthy and Stone on the terms set out in exempt Appendix 2.

Decisions

Formal authority is hereby given for –

1. The Principal Asset Surveyor, LBH oneSource - Property Services, in conjunction with the Director of Legal & Governance, oneSource, to take all necessary action to legally complete the transfer of the subject site to McCarthy and Stone on the terms set out in exempt Appendix 2.

AUTHORITY UNDER WHICH DECISION IS MADE

Having Council's Constitution Part 3 (Aug 2017 - current)

Functions delegated to the Head of Property (a *Level B Officer*) under -

3.9.3 Asset Management Functions

(i) Property Strategy Functions

- (i) To conduct preliminary negotiations, negotiate, agree and conclude all property matters including the making and settling of rating appeals on council property and property valuations for all purposes.

- (ix) To be the Council's designated corporate property officer, responsible for the strategic management of the Council's property portfolio, including corporate strategy and asset management, procurement of property and property services, planned and preventative maintenance programmes, property allocation and use, reviews, acquisitions and disposals, and commercial estate management.

oneSource Joint Committee Scheme of Delegations (22 Jan 2016 - current)

5.1 The Scheme delegates powers to officers in accordance with the following designations.

Level	Category	Power to further delegate functions
A	Managing Director, Directors, officers reporting to the Managing Director	Yes
B	Officers reporting to a level A officer	Yes
C	Officers reporting to a level B officer	Yes

5.2 Each post title will include any successor post title that is responsible for any or all of

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the services delivered by the previous post title.

Appendix A: Joint Committee Schedule of Delegated Powers

This table sets out the delegations to the levels of officers in accordance with this scheme.

Asset Management (Asset Management Officers unless where stated)		First Level	Second Level
F3	To conduct preliminary negotiations, negotiate, agree and conclude all property matters including property valuations for all purposes.	Level A	Level B and Level C
F21	To negotiate all relevant terms including payment of professional fees in respect of the letting and management of commercial premises and implement all agreements.	Level A	Level B
F22	To exercise all powers and duties under the Landlord and Tenant Acts, this may be exercised by the participating council as landlord or tenant.	Level A	Level B

STATEMENT OF THE REASONS FOR THE DECISION

The purpose of the practical completion terms entered into under the development licence was to ensure that the Council retained control over the design and construction of the development. This has been broadly achieved based on advice from the Council's Technical Services and agreement of the transfer terms will enable the developer to progress pre-sales of plots to applicants including local residents.

On completion of the matter, the Council will receive the outstanding 10% balance on the agreed sum.

OTHER OPTIONS CONSIDERED AND REJECTED

If the Council did not agree the terms, the matter will have to complete at such time as the parties can agree a practical completion statement in line with the development licence and the developer will not be able to progress plot pre-sales. There will be minimal financial impact of this on the Council; but local residents who are keen to buy plots could make representations to members and the Council could be seen to be acting unreasonably.

PRE-DECISION CONSULTATION

We have taken advice from the Council's Technical Services department with respect to agreeing the practical completion statement.

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

Name: Simeon Nnyombi

Designation: Principal Asset Surveyor

Signature:



Date:07.10.2019

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

Given that the Council's technical services team have approved the Escrow amount detailed in Appendix 1, it is considered that the Council's position is contractually protected in proceeding to completion on the basis set out in exempt Appendix 1. Any outstanding obligations under the sale agreement which are yet to be performed by McCarthy & Stone would still be enforceable after completion and McCarthy & Stone would therefore remain liable for the works and the Council would retain its remedies in relation to any breaches of those obligations. Those remedies include having to take legal action which is not the same as holding on to the freehold and refusing to complete until such time as the works have been completed.

FINANCIAL IMPLICATIONS AND RISKS

The receipt will be allocated to priorities within the capital programme.

The capital receipt will accrue interest until the funds are used for capital expenditure purposes at a rate of approx. 0.7%.

Further financial implications are contained in the exempt Appendix 1 of this report.

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

No Human Resources implications and risks.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

No Equalities and Social inclusion implications and risks.

BACKGROUND PAPERS

None.

EXEMPT Appendix (not for publication)

Appendix 1 -Revised Practical completion terms

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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

~~Proposal NOT agreed because~~

Details of decision maker

Signed

Mark Butler

Name: Mark Butler

Position: Technical Director

Date: 10th October 2019

Lodging this notice

The signed decision notice must be delivered to the proper officer, Andrew Beesley, Committee Administration & Interim Member Support Manager in the Town Hall.

For use by Committee Administration

This notice was lodged with me on 8/11/19

Signed *A. m*

