

## Notice of Non-key Executive Decision

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| <b>Subject Heading:</b>                   | Former Rainham Library Site at 21 Broadway and land Broadway, Rainham - authority to enter into an agreement under s278 Highways Act 1980  |
| <b>Cabinet Member:</b>                    | Cllr Osman Dervish<br>Environment  |
| <b>SLT Lead:</b>                          | Barry Francis<br>Director of Neighbourhoods  |
| <b>Report Author and contact details:</b> | Musood Karim<br>Engineer<br>Development Control<br>01708 432804<br>highways@havering.gov.uk  |
| <b>Policy context:</b>                    | National Planning Policy Framework (2019)<br>London Plan (2017)<br>Havering Local Implementation Plan<br>2018/19 Delivery Plan   |
| <b>Financial summary:</b>                 | <p>The full cost of the s278, legal fees, technical fees and implementation of works will be met by the developer.</p> <p>Income to be received by the Council from the development totals £0.026m of which £0.015m will be held for future maintenance.</p> <p>The Council will also hold a bond of £0.075m to cover costs of making good possible works in default</p> |

|  |             |
|--|-------------|
| <b>Relevant OSC:</b>                                 | Environment |
| <b>Is this decision exempt from being called-in?</b> | No          |

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

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

**Part A – Report seeking decision**

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

This Executive Decision authorises the Council entering into a highway agreement made under section 278 of the Highways Act 1980 (as amended) to allow changes to the maintained highway to be made in pursuance of the following planning consents;

- **Location:** Former Rainham Library offices at 21 Broadway and land to the rear of 29 Broadway RM13 9YW.

Planning Application. Ref. **P1701.17** - The demolition of existing buildings and the construction of 57 homes comprising a mix use of 22 houses and 35 apartments with associated access roads, parking, hard surfacing, landscaping, boundary treatments, refuse stores, an electrical substation and means of access to and from Broadway.

**AUTHORITY UNDER WHICH DECISION IS MADE**

Council's Constitution:

Part 3, Section 3.8.3, paragraphs (b) and (v);

(b) Other than in those matters delegated to the Lead Member following consideration by the Highways Advisory Committee, to exercise all powers and duties in respect of maintaining and improving highways, providing facilities, and interference with highways arising under Parts IV, V, VII, IX and XIV of the Highways Act 1980; and

(v) To exercise all powers and duties under the Highways Act 1980 that are not delegated to the Leader or Cabinet Member.

### STATEMENT OF THE REASONS FOR THE DECISION

Planning Application ref. **P1701.17** relates to the former Rainham Library offices at 21 Broadway and land to the rear of 29 Broadway RM13 9YW. The Planning Application was approved on 21<sup>st</sup> August 2019.

Briefly, the application involves the demolition of existing buildings (former Rainham Library) and the construction of 57 new homes with associated access roads, parking, hard surfacing, landscaping, boundary treatments, refuse stores, an electrical substation and means of access to and from Broadway.

This report exclusively deals with the highway works relating to the construction of two bell mouths for access and exit from the development. This involves the relocation of the existing zebra crossing and other miscellaneous highways works. The proposals are shown on attached drawings. **28502/7002** and **28502/7003**.

Broadway in Rainham is maintained highway and as such there is a requirement for works to the existing maintained highway (new junctions, accesses or related works), developers are required to enter into an agreement made under s278 of the Highways Act 1980 in order for the works to be able to take place.

### OTHER OPTIONS CONSIDERED AND REJECTED

For the s278 works, the alternative option of doing nothing is not considered appropriate given the development has planning consent and the Council cannot use its highway powers to frustrate the lawful implementation of a planning consent in terms of providing new access.

### PRE-DECISION CONSULTATION

None

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

Name: Musood Karim  
Designation: Engineer

Signature: *Musood Karim*

Date: 02/12/20

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

### **LEGAL IMPLICATIONS AND RISKS**

The Council's Constitution requires a formal decision to be taken before an agreement pursuant to s278 of the Highways Act 1980 is entered into. As per the Council's Constitution such authority is delegated to the Assistant Director for Environment.

s278 of the Highways Act 1980 provides for "agreements as to the execution of works" if the highway authority is satisfied that they will be of benefit to the public.

Where a development has been granted planning consent which includes physical changes to the existing highway network, it is deemed that the works will be of benefit to the public given the principles and details of the changes have been examined through the planning process.

s278 of the Highways Act 1980 makes further provisions so that the costs associated with making the agreement, the works, other highway authority costs and maintenance payments are recoverable from the developer through the agreement.

### **FINANCIAL IMPLICATIONS AND RISKS**

The Legal and Technical fees associated with the works will be secured with the s278 agreement to ensure the Council's reasonable costs are met.

Technical fees are calculated as 12.5% of the full project cost, subject to a minimum fee of £6,500 per project. Taking the former, this equates to £0.009m. The technical fee allows for at least 72 hours of staff time per project with larger schemes providing a larger fee and therefore more hours of staff time. In all cases it is anticipated that this work will be contained within the allowed hours.

The full costs for the implementation of the works totalling £0.075m will also be met by the developers through the s278 highways Agreement 1980.

As part of the agreements, the developers will pay a maintenance contribution fixed at 20% of the full project cost to the Council to help cover future maintenance costs. This sum will be held under a specified project code ref. QT023 (602980) and monitored through the road adoptions revenue budget.

Provisions will be made by way of a Bond for making good works defaults, set at 100% works cost. Assuming the projects are completed without defects the developer(s) will be released from the bond. In the case of the agreement set out in this report, the developer will provide a bond to the value of £0.075m.

The income generated from the developer through the agreement is set out below:

| <b><u>Item</u></b>  | <b><u>£(m)</u></b> |
|---|--------------------|
| Technical Fees - A24020.516460.0000.000000.602980           | £0.009             |
| Maintenance Contribution - A24020.516460.0000.000000.602980 | £0.015             |
| Legal Fee - Flat rate of £0.004m to Legal cost code         | £0.004             |
| <b>Total</b>  | <b>£0.028</b>      |

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

None arising from this decision.

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

The Council has a general duty under the Equality Act 2010 to ensure that its highway network is accessible to all. Where infrastructure is provided or substantially upgraded, reasonable adjustments should be made to improve access. In considering the impacts and making improvements for people with protected characteristics (often, but not limited to disabled people, the young and older people), this will assist the Council in meeting its duty under the Act.

Havering has a diverse community made up of many different groups and individuals. The council values diversity and believes it essential to understand and include the different contributions, perspectives and experience that people from different backgrounds bring.

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.

The council demonstrates its commitment to the Equality Act in its decision-making processes, the provision, procurement and commissioning of its services, and employment practices concerning its workforce. In addition, the council is also committed to improving the quality of life and wellbeing of all Havering residents in respect of socio-economics and health determinants.

The Technical Approval process which leads to the drawings supporting the s278 agreements will give consideration to ensuring the Council's duties are met.

#### **BACKGROUND PAPERS**

None.

## 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

Proposals agreed.

### Details of decision maker

Signed  x

Name: Sue Harper

Interim Assistant Director of Environment

Date:02/12/20

### 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 \_\_\_\_\_

Signed \_\_\_\_\_