

Notice of Non-key Executive Decision

Subject Heading:	Alterations to existing access into Development at Dover's Corner & implementation of a Toucan Crossing in Lamson Road, Rainham by Persimmon Homes - Authority to enter into an agreement under s278 Highways Act 1980
Cabinet Member:	Cllr Osman Dervish Environment
SLT Lead:	Barry Francis Director of Neighbourhoods
Report Author and contact details:	Musood Karim Engineer highways@havering.gov.uk
Policy context:	National Planning Policy Framework (2019) London Plan (2017) Havering Local Implementation Plan 2018/19 Delivery Plan
Financial summary:	The full costs of the s278, legal fees, technical fees and implementation of works will be met by the developer. Income to be received by the Council from the development totals £0.048m of which £0.027m will be held for future maintenance The Council will also hold a bond of £0.137m to cover costs of making good for possible works in default
Relevant OSC:	Environment
Is this decision exempt from being called-in?	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 S278 of the Highways Act 1980 to allow changes to the highway in pursuant to Planning Application ref. **P0922.15**.

Demolition of existing structures and the phased redevelopment to provide 394 residential dwellings, car parking, bicycle parking, substation, public open space and pedestrian/cycle infrastructure, and other works and improvements (including de-culverting of Pooles Sewer, relocation of gas main, minor alterations to access from New Road and closure of existing secondary accesses, formation of emergency access onto Lamson Road and other associated works) at Dover's Corner Industrial Park, Rainham Trading Estate and Boomes Industrial Estate, New Road, Rainham.

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 consent was approved for erection of 394 residential dwellings, car parking, bicycle parking, substation, public open space and pedestrian/cycle infrastructure, and other works and improvements (including minor alterations to access from New Road and closure of existing secondary accesses, formation of emergency access onto Lamson Road and other associated works) at Dover's Corner Industrial Park, Rainham Trading Estate and Boomes Industrial Estate, New Road, Rainham

A1306 New Road and Lamson Road are maintained public highways. Where there is a requirement for works to the existing maintained highway including widening the site access for refuse vehicles and construction of a toucan crossing for shared use by pedestrians and cyclists, developers are required to enter into an agreement made under s278 of the highways Act 1980 in order for the works to take place.

Highways works will be carried out at two different site locations on Lamson Road and A1306 New Road by the developer, Persimmon Homes Essex. The works and relevant drawing references are set out below:

i) Access into the estate from A1306 New Road to the development by construction of a priority junction. The proposals are shown in attached drawings as listed below:

- 16-011-330 T5 Adoptable Road Construction (s278) sheet 3 of 3
- 16-011-350 T3 s278 setting out Plan-Site access
- 16-011-352 T3 s278 site access overlay
- 16-011-325 T9 s278 General Arrangement site access
- 16-011-327 T5 s278 Access- Refuse and Fire Tender
- 16-011-328 T7 s278 Adoptable Road Construction details sheet1of 3
- 16-011-329 T7 s278 Adoptable Road construction details sheet 2 of 3.

ii) Implementation of a Toucan Crossing in Lamson Road. The proposals are shown in attached drawings as listed below:

- 16-011-351 T4 s278 Setting Out Plan Toucan Crossing
- 16-011-353 T4 s278 Toucan Crossing Overlay
- 16-011-326 T12 s278 General Arrangement Toucan Crossing.

OTHER OPTIONS CONSIDERED AND REJECTED

For the s278 works, the alternative option of doing nothing or refusing the application to undertake the works to the maintained highway are 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 facilitating highway works.

PRE- DECISION CONSULTATION

None

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

Name: Musood Karim

Designation: Principal Engineering Assistant

Signature: *Musood Karim*

Date: 17/02/2021

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. The technical fee allows for at least 72 hours of staff time per project with larger scheme 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 £0.137m (One hundred thirty six thousand and five hundred thirty pounds) will also be met by the developer, Persimmon Homes through the s278 Highways Agreement.

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 and monitored through the road adoptions revenue budget.

Provisions will be made by way of retaining security Bonds for the making good for any unexpected defaulted works. Assuming the projects are completed without defects the bond value will be returned to the developer(s).

In terms to security bond for the implementation of a bell mouth junction at A1306 and a toucan crossing in Lamson Road, the agreement set out in this report, the developer will provide a bond to the value of £0.137m leading to the development

The income generated from the developer through the agreement for a bell mouth junction and the toucan crossing are set out below:

<u>Item</u>	<u>£m</u>
Technical Fees A24020.516460.0000.000000.602614	£0.017
Maintenance Contribution A24020.516460.0000.000000.602614	£0.027
Public advertisement (Nil)	£0.000
Legal Fee - Flat rate of £0.004m to Legal cost code	£0.004
Total	£0.048

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

Confirmed no HR Implications or risks arising directly.

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: 18/02/2021

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 _____