

Notice of Non-key Executive Decision

Subject Heading:	Contract for the demolition of Waterloo and Queen Street- Update
Cabinet Member:	Councillor Damian White Leader of the Council
Report for :	Neil Stubbings Director of Regeneration
Report Author and contact details:	Jan Gill Project Manager Jan.Gill@havering.gov.uk
Policy context:	Havering Housing Strategy 2014-2017 National Planning Policy Framework 2012 Draft London Plan 2017 Emerging Havering Local Plan 2017 HRA Business Plan 2017-2047
Financial summary:	The Key Executive Decision dated 30 July 2020, provided the necessary consent for the Council enter into contract with WCL to carry out the agreed package of demolition and enabling works on the Waterloo Estate, for an agreed value of £7.8m.

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Relevant OSC:	Towns and Communities
Is this decision exempt from being called-in?	Yes - It is a non-key decision

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

Communities making Havering	<input checked="" 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

Approve

The Director of Regeneration is asked to:

- (a) Prior to the signing of the Early Works Agreement (the demolition contract) note the outstanding title matters set out in this report in relation to the Waterloo Estate;
- (b) Give approval for the Council to obtain and implement appropriate insurance consequent on the liabilities outlined in the Basic Asset Protection Agreement (BAPA) with Network Rail Infrastructure Ltd. A decision on the selection of the insurer will be taken by oneSource in line with the Council's scheme of delegation.

AUTHORITY UNDER WHICH DECISION IS MADE

Pursuant to the meeting of 12 February 2020 Cabinet approved a budget of up to £8million for the demolition of the Waterloo Estate and agreed for the Director of Regeneration in consultation with the Director of Legal and Governance to enter into a contract with Havering and Wates JVLLP to carry out the demolition of the Waterloo Estate. A key decision was taken in July 2020 to enter into the Early Works Agreement for the demolition works. This report provides an update to the decision.

STATEMENT OF THE REASONS FOR THE DECISION

Background

A Key decision was taken July 2020 to enter in to the demolition contract. The contract has not yet been entered into and since the decision was taken a number of matters have arisen which are the subject of this report.

The Director of Regeneration is asked to note the update on the title matters set out at appendix 9 in relation to the Waterloo Estate. A number of low risk title matters will require resolving prior to the commencement of the development works or during the progress of the demolition works as set out at appendix 9.

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In addition, the Director of Regeneration is asked to note matters relating to ongoing discussions around access with the owners of three properties that back onto the Waterloo Estate along Cotleigh Road, Legal Services are instructed and negotiations are ongoing with the parties. Counsel's advice is set out at Exempt Appendix 1.

Basic Asset Protection Agreement (BAPA)

BAPA arrangements for Waterloo Redevelopment

The Director of Regeneration is recommended to:

Give approval for the Council to obtain and implement appropriate insurance consequent on the potential liabilities outlined in the BAPA with Network Rail Infrastructure. The total premium to include insurance premium tax at £12%, and not to exceed £379,000.00.

A decision on the selection of the insurer will be taken by oneSource in line with the Council's scheme of delegation.

The redevelopment of Waterloo Estates required the Council to enter into a Basic Asset Protection Agreement (BAPA) with Network Rail Infrastructure Ltd due to the construction works being within close proximity to the railway line. Network Rail's track runs the full length of the western edge of the proposed development refer to Appendix 5 for boundary for reference. As the landowner, the Council is obliged to enter into the BAPA, as such, the BAPA was duly entered into by the Council on 15th February 2019. An outline of the key liabilities within the BAPA are set out at Exempt Appendix 4 together with the position of the JV under the Early Works Agreement in relation to these liabilities.

OTHER OPTIONS CONSIDERED AND REJECTED

Rejected – **Do nothing.** The redevelopment of Waterloo Estates necessitated that the Council entered into a Basic Asset Protection Agreement (BAPA) with Network Rail Infrastructure Ltd. Therefore, the Council must indemnify Network Rail in order to protect Network Rail for any future claims of loss suffered and from all liability claims incurred. Therefore to do nothing would expose the council to immeasurable risk.

Rejected - to hold off commencement of the demolition works until all title matters are resolved – this has been rejected due to the adverse financial consequences that would result from delaying the programme of works, including potential loss of GLA grant. It is considered that the risk mitigations set out at exempt appendix 9 are sufficient to ensure that the Council is not exposed to undue financial risk.

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PRE-DECISION CONSULTATION

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

Name:

Designation: Regeneration Project Manager

Signature:

Date:

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The powers to enter into the Early Development Agreement (and consequently the demolition contract) were outlined in the executive decision of July 2020.

Further Legal comments are incorporated within Exempt Appendices 1, 4 and 9

FINANCIAL IMPLICATIONS AND RISKS

The Key Executive Decision dated 30 July 2020, provided the necessary consent for the Council enter into contract with WCL to carry out the agreed package of demolition and enabling works on the Waterloo Estate, for an agreed value of £7.8m.

Further to that approval, it would be necessary to also: -

1. Set aside an additional amounts to settle claims for compensation linked to access rights. This would be funded from the existing vacant possession budget set aside for the scheme; and
2. Set aside an additional £379,000 to provide the necessary insurance cover to underpin the Council entering into a Basic Asset Protection Agreement (BAPA) with Network Rail Infrastructure Ltd. This would be funded from the contingency budget set aside for the programme.

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

None.

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:

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- (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, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, and sexual orientation.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

BACKGROUND PAPERS

None

APPENDICES

Appendix 1- Counsel Advice (Exempt)
Appendix 2 -Valuation Report (Exempt)
Appendix 3 -Redline boundary plan incorporating ownership rights (Exempt)
Appendix 4 – BAPA key terms (Exempt)
Appendix 5 – Boundary Plan Exempt
Appendix 6 – Insurance Quotes (Exempt)
Appendix 7 – Draft Insurance policy (Exempt)
Appendix 8 – Location of trial hole trenches
Appendix 9 – Title matters (Exempt)
Appendix 10 Waterloo and Queen Street Demolition Contract Executive Decision

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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

Delete as applicable

Details of decision maker

Signed 

Name: Neil Stubbings

Cabinet Portfolio held:

CMT Member title:

Head of Service title: Director of Regeneration

Other manager title:

Date: 15.03.21

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 _____