



## Notice of Non-key Executive Decision

<b>Subject Heading:</b>	Lease Agreements with Utility Companies for Installation of New Substation – Land located at Napier and New Plymouth Site, Dunedin Road, Rainham, RM13 8LB
<b>Cabinet Member:</b>	Councillor Roger Ramsey Cabinet Member for Finance & Property
<b>SLT Lead:</b>	Neil Stubbings (Director of Regeneration)
<b>Report Author and contact details:</b>	Clement Ojediran - Development Surveyor DDI:01708434131 Email:clement.ojediran@havering.gov.uk
<b>Policy context:</b>	Council's Corporate Asset Management Plan
<b>Financial summary:</b>	None
<b>Relevant OSC:</b>	Value
<b>Is this decision exempt from being called-in?</b>	Yes – Because it is a Non-Key Executive Decision by a Member of Staff

**Non-key Executive Decision**

**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

#### Background

On 14<sup>th</sup> January 2021 Eastern Power Networks (UK Power Networks) through GTC, (their Agent and an independent utility provider), contacted Wates Construction (our JV Partner) to request grant of a Lease for the siting of the substation on Council land enabling the installation of a new substation. The substation will be owned by Eastern Power Networks (UK Power Networks), the Distribution Network Operator (DNO) and the apparatus will enable electricity connection to the new dwellings.

The grant of Lease would enable the installation of the substation on the area shown in the attached plan (please see appendix 1 - Plan). The grant of Lease, together with the wayleave (already granted to UK Power Networks), will enable the provider to install and maintain their apparatus located on the Council owned land, and to carry out all necessary reinstatement after completing the works.

Considering the number of Utility companies that will be involved in the development, we also envisage that other Utility companies such as Essex and Suffolk Water, Thames Water, National Grid would also approach the Council to make similar requests.

#### Recommendations

That the Head of Property :

1. Instruct the Council's solicitor to negotiate the relevant Lease Agreement(s) and/or Deed(s) of Easement in liaison with relevant Utility companies and complete the process as soon as possible.
2. In consultation with the Director of Legal and Governance, take all steps necessary to conclude all matters arising and thereafter enter into the Lease Agreement (s) with the relevant Utility companies as may be required.

### AUTHORITY UNDER WHICH DECISION IS MADE

Delegated authority to the Head of Property is provided for within the Council's Constitution and as supplemented in the Scheme of Delegation for the OneSource Joint Committee Functions as a *Level B Officer*.

**Havering Council's Constitution Part 3 (March 2020 - current)**

**3.9 Functions relating to the OneSource Group of Services**

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This section covers functions delegated to the Joint Committee with the London Borough of Newham and London Borough of Bexley which in turn has delegated them to the relevant officer in the joint structure.

### **3.9.3 Asset Management Functions**

#### **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
- iv 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 (December 2018 current)**

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

<b>Level</b>	<b>Category</b>	<b>Power to further delegate functions</b>
<b>1</b>	Chief Executive, Executive Directors, Managing Director OneSource	Yes
<b>2</b>	Directors and Officers reporting to tier 1 posts (excluding Officers in support/clerical roles) including OneSource Directors.	Yes
<b>3</b>	Officers reporting to tier 2 posts (excluding administrative or clerical posts) or OneSource directors	Yes
<b>4</b>	Officers reporting to tier 3 posts(excluding administrative or clerical posts) or Tier 3 OneSource officers	Yes

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

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<b>Asset Management</b> (Asset Management Officers unless where stated)		<b>First Level</b>	<b>Second Level</b>
<b>F3</b>	To conduct preliminary negotiations, negotiate, agree and conclude all property matters including property valuations for all purposes.	Level A	<b>Level B and Level C</b>
<b>F21</b>	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	<b>Level B</b>
<b>F22</b>	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	<b>Level B</b>

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

The grant of Lease(s) to utility companies will facilitate the installation (and all necessary reinstatement works) and maintenance of their apparatus on Council land hence make way for the development of new dwellings. The new dwellings would deliver a number of affordable homes proposed within the regeneration programme. The grant of Leases(s) would also enable the proposed homes to have access to utility services such as telephones, electricity, water etc.

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

The other option considered would be to refuse the grant of the Deed of Easements and Wayleaves Agreement.

**Rejected** – The decision not to grant the Easements and Wayleaves will be an impediment to the proposed development as the completed dwellings will not be connected to required services such as telephones, electricity, water, gas etc.

Moreover, the water, gas, electricity, communications and energy industries enjoy statutory rights of access onto private land to lay pipes, wires, cables and other service infrastructure. See further details under Part B below – legal implications and risks.

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**PRE-DECISION CONSULTATION**

There has been formal consultation with Finance, Legal Services, Equality & Diversity and Human Resources.

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

Name: Clement Ojediran

Designation: Development Surveyor

Signature: 

Date: 07.07.2021

## Part B - Assessment of implications and risks

### LEGAL IMPLICATIONS AND RISKS

The water, gas, electricity, communications and energy industries enjoy statutory rights of access onto private land to lay pipes, wires, cables and other service infrastructure.

The Electricity Act 1989 at section 10(1) provides two methods for an electricity supply undertaking to obtain rights enabling to construct or, if already in existence, keep power lines over land, including by acquisition of wayleaves, pursuant to Schedule 4.

The [Water Industry Act 1991](#) gives a water or sewerage undertaker power to lay pipes above or below ground, and grants rights of access for inspection, maintenance and alterations.

The electronic communications code (the 'Code') sets out the powers enjoyed by authorised operators to install apparatus pursuant to [Schedule 3A](#) of the Communications Act 2003.

These acts together with the general power of competence in section 1 Localism Act 2011 will enable the Council to enter into the relevant Deeds of Easement and Wayleave Agreements required with the utility companies.

Due to utility company requirements for consistency across their estates, the documents are usually in a fairly standard form but the Council's solicitors will be instructed to negotiate the documents to ensure they address any site specific concerns and meet the Council's needs.

The recommendations in this report are in accordance with the delegated authority assigned to the Head of Property pursuant to Part 3.9 of the Council's Constitution and the Scheme of Delegation approved by the OneSource Joint Committee.

### FINANCIAL IMPLICATIONS AND RISKS

There are no financial implications and risks to granting Easements and Wayleaves to relevant Utility companies.

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

There are no Human Resources implications and risks

### 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;

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- (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.

There are no specific equalities implications arising from this decision

### **BACKGROUND PAPERS**

Appendix 1 - Plan



**Non-key Executive Decision**

**Part C – Record of decision**

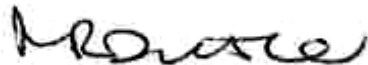
I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

**Decision**

Proposal agreed

**Details of decision maker**

Signed



Name: Mark Butler

Head of Service title: Director of Asset Management

Date: 9<sup>th</sup> July 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 \_\_\_\_\_