

Notice of KEY Executive Decision containing exempt information

Note that Exempt Appendices A and B are not available for public inspection as they contain or relates to exempt information within the meaning of paragraph 3 of Schedule 12A to the Local Government Act 1972. They are exempt because they refer to information relating to the financial or business affairs of any particular person (including the authority holding that information), and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Subject Heading:	The acquisition of "Property 2B" as part of the Rainham and Beam Park Regeneration Housing Zone programme.
Cabinet Member:	Councillor Damian White Leader of the Council.
SLT Lead:	Neil Stubbings Director of Regeneration Programme Delivery
Report Author and contact details:	Harry Scarff Commercial Manager (Regeneration) Harry.Scarff@havering.gov.uk
Policy context:	<p>This decision is made in the context of the promotion of the policy to regenerate the area defined by the Rainham and Beam Park Housing Zone.</p> <p>The property in question forms part of a key strategic site identified for residential redevelopment as part of the proposed regeneration of Rainham and Beam Park Housing Zone.</p>
Financial summary:	This Executive Decision sets out information relating to the funding of the acquisition on by the Council of property interests, including freehold interests, to

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	<p>enable land assembly required to secure regeneration.</p> <p>It is proposed that the Council acquires and holds the land in anticipation of development once the entirety of the strategic site has been assembled. The costs, funding and associated implications are set out in the exempt Financial Implications and Risks sections below.</p>
Reason decision is Key	Expenditure or saving (including anticipated income) of £500,000 or more
Date notice given of intended decision:	8 th October 2021
Relevant OSC:	Overview & Scrutiny Board Towns & Communities OSC
Is it an urgent decision?	No
Is this decision exempt from being called-in?	Yes

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

The Leader of the Council is asked to agree to the allocation of funding for, and the direct acquisition of, “Property 2B”, Rainham, by the Council in exception to the Rainham and Beam Park Regeneration LLP’s Land Acquisition Strategy. The recommended actions are:

1. To make a formal offer to the freeholder of “Property 2B”, Rainham for the direct acquisition and vacant possession of the Property by the Council. (at an amount as recommended and set out in Exempt Appendix A).
2. To conclude negotiations with occupying tenant for an option to purchase their leasehold interest at an agreed market value under Rule 2, Section 5 Land Compensation Act 1961. (as recommended and set out in Exempt Appendix A)
3. In the event of the offer being accepted take all necessary steps to agree any claim for disturbance, loss and fees to the freeholder and tenant, subject to the satisfactory conclusion of the acquisition of the Property pursuant to action 1 and 2 above.
4. Take all necessary steps to provide sufficient funding to make an initial payment of 90% of the agreed purchase price and undertake the purchase of the Property and leasehold interest, subject to the satisfactory conclusion of the acquisition terms pursuant to action 5 below. As allowed for in section 16 of the Valuation Office Agency’s Land Compensation Manual and the Land Compensation Act 1953.
5. Consult with the S151 Officer and the Director of Legal and Governance, and after undertaking any necessary further legal and property due diligence, prepare and enter into all necessary legal documentation to bring into effect the proposed financial and legal arrangements in action 3 above.

It is recommended that steps 1 – 5 set out above should be undertaken.

AUTHORITY UNDER WHICH DECISION IS MADE

The decision to acquire “Property 2B”, New Road, Rainham and the Compensable Interest of the Tenant, will be undertaken in accordance with the responsibilities and procedure set out at Part 3, section 2.5 (t), of the Constitution.

The Leader of the Council may approve the ‘in principle’ decision of the Council disposing of or acquiring an interest in property or land where the disposal or acquisition receipt is not considered likely to exceed £1,000,000.

STATEMENT OF THE REASONS FOR THE DECISION

The Council has a long-standing strategic aim to secure the comprehensive regeneration of a key area in the south of the borough - the ‘Rainham and Beam Park Housing Zone’.

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Nine strategic sites along the A1306 have been identified that will require direct intervention to enable development that accords with the Council's overall Housing Zone objectives and contributes to overall housing delivery targets.

The Council remains committed to the strategic regeneration and housebuilding objectives for the Rainham and Beam Park area and which remain a key policy position and intends to continue with the acquisition of property through private treaty with the potential to remake a revised CPO or multiple smaller CPO's in future if, and as when, necessary

Negotiations for the purchase of "Property 2B" were conducted and agreed in accordance with the Secretary of State's policy concerning the compulsory purchase process and it is recommended that this position is maintained in order not to prejudice the possible making of future CPO(s). The Council should continue to be able to demonstrate that they have taken all reasonable steps to acquire land by private treaty. At paragraph 2 of the Secretary of State's Guidance on Compulsory Purchase Process and the Critchel Down Rules, he provides that:

"The confirming authority will be expected to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement. ... Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects".

Experience confirms that any acquiring authority will be required to demonstrate that such reasonable steps have been taken in respect of each interest for which it seeks confirmation of powers of compulsory acquisition.

As part of this engagement, and to ensure that they were properly advised, the owner and tenant have been provided with an undertaking that reasonable professional fees incurred in negotiations would be reimbursed.

As a result of negotiations between Ardent and the owner's and tenant's advisors, the parties have moved towards a settlement on property values whereby an offer to purchase can be made.

Therefore, it is recommended that the Council should -

- Follow the recommendation that funding be made available to complete the acquisition of "Property 2B" and the leasehold interest of the occupying tenant and agreed payments to cover the compensable Interests of the owner and tenant.
- To use budgets approved and phased in 2020/21 and 2021/22.

OTHER OPTIONS CONSIDERED AND REJECTED

Not to proceed with the purchase of the Property and leasehold interest – **Rejected**

Not to proceed to pay for disturbance, loss, and fees for the vendor and tenant – **Rejected**

The Council's detailed reasoning for rejecting these options is included in the EXEMPT version of this report, not available for public inspection.

PRE-DECISION CONSULTATION

N/A

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

Name: Harry Scarff

Designation: Commercial Manager (Regeneration)

Signature:

Date:

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Compulsory Purchase guidance urges acquiring authorities to seek to purchase properties through private treaty negotiations and only use CPO as a last resort. It states “the confirming authority will expect the acquiring authority to demonstrate that they have taken reasonable steps to acquire all of the land and rights included in the Order by agreement. Where acquiring authorities decide to arrange to acquire land by agreement, they will pay compensation as if it had been compulsorily purchased, unless the land was already on offer on the open market. Compulsory Purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects”

Further information regarding the Council’s identified legal implications and risks are contained within the EXEMPT version of this report, not available for public inspection.

FINANCIAL IMPLICATIONS AND RISKS

The financial implications and risks are contained within EXEMPT APPENDIX B

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

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The Rainham JVLLP project will require continued involvement of officers from the Regeneration Directorate, other Council services and external resources. The Rainham and Beam Park Housing Zone forms part of the Council's overall regeneration programme and a separate report setting out the Director of Regeneration's proposed arrangements was presented to Cabinet and approved in Oct 2020.

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;
- 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 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-economic and health determinants.

In respect of the proposed decision to acquire the subject property there are no implications or risks associated with the Council's statutory duty.

HEALTH AND WELLBEING IMPLICATIONS AND RISKS

This decision in itself will present no risks of negative wellbeing to individuals or groups. However, it will contribute to the on-going realisation of the Council's regeneration vision for the Rainham and Beam Park Housing Zone.

The Rainham and Beam Park Housing Zone will unlock significant investment for housing – both market and affordable – and enable key social infrastructure provision in South Hornchurch and Rainham and Wennington Wards which are among the most deprived in the Borough and London.

The allocation of affordable housing would be subject to the Council's Allocation Scheme and any local lettings policies that would be drawn up to promote Rainham and South Hornchurch residents' interests. Thus, delivery of affordable housing would benefit some of the borough's most disadvantaged residents.

The new homes built would include a proportion of homes built to lifetime homes and disabled living standards.

Planned investment in new transport, schools, health and leisure facilities including new high quality green space would ensure that those living in the south of the borough benefit from improvements in amenities without needing to travel to other parts of the borough, incurring costs and inconvenience.

The needs of disabled people and carers will be an integral feature of housing stock, allocation and lettings policies. No 'protected' group will be disadvantaged by the developments; however, where there is the possibility of a negative impact, a full Equality Impact Assessment will be carried out.

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: Councillor Damian White

Cabinet Portfolio held: Leader of the Council

Date:

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 _____