

Notice of Non-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 Interests as part of the Rainham and Beam Park Regeneration Housing Zone programme. 'Property 4B'
Cabinet Member:	Councillor Damian White Leader of the Council
SLT Lead:	Neil Stubbings Director of Regeneration
Report Author and contact details:	Harry Scarff Commercial Manager Harry.Scarff@havering.gov.uk
Policy context:	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. 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
Financial summary:	This Executive Decision sets out information relating to the funding of the

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	<p>acquisition on by the Council of property interests, including freehold interests, to 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.</p> <p>The costs, funding and associated implications are set out in the exempt Financial Implications and Risks sections below</p>
Relevant OSC:	Overview & Scrutiny Board Towns & Communities OSC
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 type="checkbox"/>
Places making Havering	<input checked="" type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

The decision required is for the Council to agree to allocate funding for, and agree to the direct acquisition of 'Property 4B', 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 4B', 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. 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 above.
3. Take all necessary steps to provide sufficient funding and undertake the purchase of the Property, subject to the satisfactory conclusion of the acquisition terms pursuant to action 4 below.
4. 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.
5. Undertake an appraisal of options to maintain the property in beneficial use after acquisition and prior to redevelopment.

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

AUTHORITY UNDER WHICH DECISION IS MADE

The decision to acquire the Property, 'Property 4B', Rainham, and the compensable interest of the owner, will be undertaken in accordance with the responsibilities and procedure set out at Part 3, section 2.5 (t), of the Constitution.

To 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'.

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.

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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 4B', Rainham, were conducted and agreed in accordance with the Secretary of State's policy concerning the compulsory purchase process. This being the case it is considered appropriate to maintain this position and 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 has 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 advisor, the parties have moved towards a settlement on property values whereby an offer to purchase can be made.

However, and importantly, the LLP, having considered this matter, has not agreed to progress with this acquisition. Therefore the Council is recommended to step in to conclude the transaction and this report seeks authority to use financial resources already identified and agreed within the 2020/21 Council budget.

Therefore, having regard to the successful acquisition of 'Property 4B', Rainham, it is recommended that the Council should -

- follow the recommendation that funding be made available to complete the acquisition of 'Property 4B', Rainham, and agreed payments to cover the compensable Interests of the owner.
- To fund acquisition costs from the approved 21/22 Capital budget

OTHER OPTIONS CONSIDERED AND REJECTED

Not to proceed with the purchase of the Property – **Rejected**

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

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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

Signature:



Date: 19th January 2022

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)**

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.

BACKGROUND PAPERS

None

APPENDICIES

Appendix A (EXEMPT) – Assessment of costs and compensation
Appendix B (EXEMPT) – Financial risks and implications

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: 19/01/2022

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 _____