

Notice of Non-key Executive Decision

This Non-Key Executive Decision Report is part exempt. Appendix A is not available for public inspection as it contains exempt information within the meaning of paragraph 3 of Schedule 12A to the Local Government Act 1972. It is exempt because it refers 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:	Quarles Option Agreement Extension for Mercury Land Holdings Limited.
Cabinet Member:	Councillor Graham Williamson Cabinet Member for Development & Regeneration
SLT Lead:	Neil Stubbings Director of Regeneration
Report Author and contact details:	Paul Walker Interim Assistant Director of Development 01708 434282 paul.walker@havering.gov.uk David W Beament Strategic Asset Manager 01708 434147 David.WBeament@onesource.co.uk
Policy context:	The establishment of Mercury Land Holdings was agreed in May 2015. Its key objectives were to generate a financial return for the Council, contribute to the delivery of housing supply, ensure the

	right mix of housing for the borough and support the growth and regeneration needs of the Council.
Financial summary:	There are no direct financial implications associated with the proposed extension to the Options Agreement.
Relevant OSC:	N/A
Is this decision exempt from being called-in?	Yes, this is an Officer decision taken under delegation.

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 type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Place an X in the [] as appropriate

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

Following Council approval of the Loan Facility and related Agreements for Quarles Campus, the arrangements for the finance and transfer of the site to the Council's wholly owned company (MLH) are progressing towards conclusion, although this has taken longer than originally anticipated.

In relation to the Option Agreement, there are two existing leases with telecoms operators that need to be surrendered back to the Council in relation to apparatus located on a building on the site that will need to be demolished as part of the redevelopment. Negotiations have progressed with both operators and a new site has been identified for them to relocate their telecoms apparatus. New agreements need to be agreed with both operators before this relocation can take place.

The operators have been working up design details and budget costings for the move in accordance with their own procedures for the relocation with a view to providing the Council with vacant possession of their current facilities. One operator has already completed this exercise, whilst the second, having recently exchanged, should complete by the end of September 2022.

An ecologist employed by MLH has been obliged to update the ecology report which was submitted with the planning application for the proposed housing development. Investigation has revealed that there is a bat roost within the main building on the site, and elsewhere, despite the recent drought, a number of great crested newts have been discovered. The bats and newts are protected species under the Wildlife & Countryside Act 1981.

Given this both species need to be relocated before work can take place on the site. This relocation needs to be licenced by Natural England. As a responsible body, MLH have taken steps to apply for the necessary licences, but Natural England seem to have a backlog of work and as a result MLH has been advised that licence applications could take up to two months to be considered. This obviously has the potential to cause delay.

Resolution of the above matters will enable the subsequent exchange and completion on the property sale to MLH under the Option Agreement, and also exchange and completion on the Facility Agreements.

The Head of Asset Management has confirmed that the price agreed for disposal will continue to meet the requirements of Section 233 of the Town and Country Planning Act

1990 and that the sale price under the option is for best consideration reasonably obtainable.

Taking all things into consideration, and as a precautionary measure, it would be prudent to extend the long-stop date until 23rd November 2022.

Recommendation

That the Director of Regeneration, in consultation with the Director of Legal & Governance and the Section 151 Officer, authorises (i) a prudent extension of the Option Agreement until the 23rd November 2022 and (ii) that the associated legal arrangements be made to bring this into effect.

AUTHORITY UNDER WHICH DECISION IS MADE

Decision made by the Leader of the Council under Key Decision (October 2021).

“9. That the Director of Regeneration, acting in consultation with the Director of Legal and Governance and the Section 151 Officer, be authorised to enter into all necessary legal agreements to bring into effect the proposed arrangements in these Recommendations for both sites.”

STATEMENT OF THE REASONS FOR THE DECISION

The Company (MLH) is managed by the Council acting as Shareholder and through its Business Plan.

The Option Agreement in respect of Quarles Campus was entered into between the parties on 08th November 2019.

The Council and the Company now need to take a prudent step to extend the long stop date to utilise the agreement in order to help to facilitate the formal transaction.

OTHER OPTIONS CONSIDERED AND REJECTED

None.

PRE-DECISION CONSULTATION

None

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

Name: Paul Walker.

Designation: Interim Assistant Director of Regeneration.

Signature:



30/08/2022.

Name: David W Beament

Designation: Strategic Asset Manager.

Signature:



30/08/2022.

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The recommendation in this report relates to the extension of the Option Agreement made between the Council and its wholly owned company, Mercury Land Holdings Limited.

In respect of the overarching scheme at Quarles Campus to which the Option Agreement relates, the Council has a statutory duty under Section 8 of the Housing Act 1985 to consider housing conditions in its district and the needs of the district with respect to the provision of further housing accommodation. In addition, Section 1 of the Localism Act 2011 provides local authorities with the power to do anything an individual may do subject to a number of limitations (this is referred to as the General Power). A local authority may exercise the General Power for its own purpose, for a commercial purpose and/or for the benefit of others. The Council utilises its wholly owned company to deliver its objectives around local housing provision.

The Wildlife & Countryside Act 1981 (as amended), is the primary legislation which protects animals, plants and habitats in the United Kingdom. Failure to observe the provisions of the Act, unless operating under Licence, can result in prosecution with penalties that include fines and imprisonment.

The Head of Asset Management has confirmed that the sale price under the option will continue to meet the requirements of section 233 of the Town and Country Planning Act 1990 and that the sale price if the option is exercised will be for best consideration reasonably obtainable.

There are no risks and legal implications arising in respect of this extension.

The recommendation within this report falls by way of delegation as permitted under s101 Local Government Act 1972.

FINANCIAL IMPLICATIONS AND RISKS

The proposed extension to extend the Options Agreement of itself has no direct financial implications. Exempt Appendix A includes the valuation of the site.

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

There are no implications arising from the proposed extension.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

Under section 149 of the Equality Act 2010, the Council has a duty when exercising its functions. This includes to have "due regard" to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act and advance equality of opportunity and foster good relations between persons who share a

protected characteristic and persons who do not. This is the public sector equality duty. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

“Due regard” is the regard that is appropriate in all the circumstances. The weight to be attached to each need is a matter for the Council. As long as the council is properly aware of the effects and has taken them into account, the duty is discharged.

There are no implications arising from the proposed extension.

ENVIRONMENTAL IMPLICATIONS AND CLIMATE CHANGE

There are no direct implications arising from the proposed extension. MLH are following the correct procedures to relocate the protected species that have recently been found on site.

BACKGROUND PAPERS

NKED (with exempt Appendices) – Approval of Loan Facility Agreements for MLH (Quarles Campus) April 2022.

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

Proposal NOT agreed because

Details of the Decision Maker

Signed



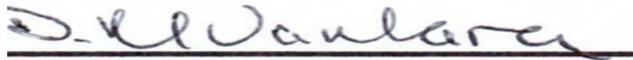
Name: Neil Stubbings

CMT Member title: Director of Regeneration

Date: 7th September 2022.

Details of Consultees

Signed



Name: Dave McNamara

CMT Member title: Interim Director of Finance-S151 Officer

Date: 5th September 2022.

Signed



Name: Alison McKane

CMT Member title: Director of Legal & Governance-Monitoring Officer

Date: 1st September 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 _____