



Notice of NON KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendices [A] is not available for public inspection as it contains or relates to exempt information within the meaning of paragraph 3 of Schedule 12A to the Local Government Act 1972. It is exempt because it refers to financial information/valuation and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Subject Heading:	240 Chase Cross Road, Romford, RM5 3XP - Authorisation to extend the lease term.
Decision Maker:	Patrick Odling-Smee Director of Housing
Cabinet Member:	Cllr Paul McGeary Lead Member for Housing
SLT Lead:	Patrick Odling-Smee Director of Housing
Report Author and contact details:	Claire Bailey – Home Ownership and leasehold Officer 01708 433015 claire.bailey@havering.gov.uk
Policy context:	Home Ownership
Financial summary:	The leaseholder will pay a premium £4000.00 and the other associated costs in connection with extending the lease term.
Relevant OSC:	Places Overview and Scrutiny Sub Committee OSC
Is this decision exempt from being called-in?	Yes, this is a non-key decision by a member of staff.

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

Communities making Havering	[X]
Places making Havering	[X]
Opportunities making Havering	[X]
Connections making Havering	[X]

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

Background:

The property is a 2 bedroomed ground floor purpose built maisonette. The property benefits from a private rear garden and front drive.

The property was originally sold under the Right to Buy on a long lease in February 1986. The lease was originally granted for 125 years. Due to the number of sales which have taken place within the block there is currently 88 years remaining on the lease.

The Council received an application on 24 March 2022 from the leaseholder for a lease extension by negotiation instead of pursuant to the Leasehold Reform Housing and Urban Development Act 1993 (as amended) (hereinafter referred to as “1993 Act”). Under the 1993 Act, the parties are bound by the following requirements :

- To be at a peppercorn rent (i.e. no rent) for the whole of the term (the 90 years plus the present unexpired term);
- To be on the same terms as the existing lease, subject to minor modifications and certain statutory exclusions and additions:
 - Modifications – to take account of any alterations to the flat, or the building, since the grant of the existing lease (e.g. reference to gas lighting or coal stores), or to remedy a defect in the lease.
 - Exclusions – since the 1993 Act provides a right to perpetual renewal of the lease, any existing clauses relating to renewal pre-emptions or early termination are to be excluded.
 - Additions – a requirement not to grant a sub-lease of sufficient length so as to confer on the sub-lessee a right to a new lease under the Act.
 - The landlord’s redevelopment right – the new lease must also contain a clause giving the landlord the right to repossession of the flat for the purposes of redevelopment.

The formal route has statutory stages that legally have to be met by the freeholder and leaseholder. Failure to comply with the statutory provisions and timescales can mean the leaseholder could commence action against the Council in the First Tier Tribunal (Lands Chamber) under the 1993 Act and seek appropriate redress. The Council would in addition be liable for all associated costs in this regard as well.

The benefits of granting a lease informally are the following:

- Parties can agree their own terms of the lease
- The parties are not bound by the legislative requirements and rigid timescales set by 1993 Act.

As such the parties have agreed the following lease terms :

- To be at a peppercorn rent (i.e. no rent) for the whole of the term (the 90 years plus the present unexpired term);
- To be on the same terms as the existing lease, subject to minor modifications

Valuation Commentary:

To obtain a valuation of the premium which is attainable following the informal route.

The Landlord is entitled to compensation for the loss in the value of the present and reversionary interest, together with an equal share of any enhancement to the value of the flat

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upon extension of the lease, if appropriate (called marriage value). Marriage value is only attributable when leases have an unexpired term of less than 80 years and in this case therefore has not been applied as part of the valuation.

- The leaseholder submitted a written request for an informal lease extension on 23rd March 2022 in which they have stated that they are prepared to pay a premium of £4,000.00 for the extension to the Lease.
- The Council and leaseholder have now reached an agreement on a premium figure of £4,000.00.

The leaseholder will be responsible for the Council's reasonable Legal and Surveyor's fees.

AUTHORITY UNDER WHICH DECISION IS MADE

3.8.2

(dd) To carry out the following functions:

(i) To undertake management responsibility for the Council's freehold interest where property has been disposed of on a leasehold basis under the right to buy legislation. This includes:

- enforcing covenants
- carrying out repairs
- recharging liabilities
- consulting with and involving leaseholders and their management organisations as necessary.

(ii) To manage the Council's housing stock and authorise action to obtain possession of council housing accommodation and recover rent arrears, including the service of all necessary notices and action (including applying for injunctions) to enforce or vary the Council's tenancy agreement

STATEMENT OF THE REASONS FOR THE DECISION

Although, the leaseholder has made a request for an informal lease extension, it should be noted that the leaseholder has a statutory entitlement to extend the lease pursuant to the provisions of the Leasehold Reform Housing and Urban Development Act 1993

OTHER OPTIONS CONSIDERED AND REJECTED

The lease could be granted pursuant to 1993 Act. This option has been rejected as the leaseholder has put forward a request for an informal lease extension.

PRE-DECISION CONSULTATION

The following have been consulted over the proposed transfers & easements -

Legal Services and Property Services.

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

Name: Claire Bailey

Designation: Home Ownership and Leasehold Officer

Signature:



Date: 8th November 2022

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The leaseholder has a statutory right for a lease extension for a period of 90 years at a peppercorn rent in addition to the unexpired term of the lease. The provisions and requirements and timetable are set out in the 1993 Act

The leaseholder has requested for an informal lease extension. The parties are entitled to negotiate the terms and are not bound by the statutory timescales. The Council are therefore not at risk of the leaseholder commencing action in the First Tier Tribunal for failure to comply with these provisions. The Council would also be liable for all associated costs in this regard as well.

The Council has a wide “general power of competence” under Part 1, Chapter 1 of the Localism Act 2011, which gives it the same power to act as that of an individual subject to other statutory provisions limiting or restricting its use.

The Council can also rely on the General Consents issued by the Secretary of State under s32 of the Housing Act 1985. The General Housing Consents covers situations where the consent of the Secretary of State is not required before a local authority disposes of council housing land and assets.

The consent states:

A4.1 A local authority may -

- (a) in the case of dwelling-houses, extend a long lease or grant a new long lease to a tenant who has held a long lease of the dwelling-house for a period of at least two years, for a premium calculated in accordance with section 9 of the Leasehold Reform Act 1967; and
- (b) in the case of flats, extend a long lease or grant a new long lease to a qualifying tenant who has held a long lease of the flat for a period of at least two years, for a premium calculated in accordance with Schedule 13 to the Leasehold Reform, Housing and Urban Development Act 1993.

Lastly, the Council will also seek to rely on the s123 Local Government Act 1972 when granting the lease extension. Pursuant to the Act, the Council may dispose of land held by them in any manner they wish. However, it cannot dispose of land “for a consideration less than the best that can reasonably be obtained” unless the consent of the Secretary of State is sought. Following an external valuation of the property and negotiation by the parties, the premium agreed for the lease extension represents best consideration under the aforementioned Statute.

FINANCIAL IMPLICATIONS AND RISKS

The figure of £4,000.00 has been agreed and is payable by the Leaseholder, in addition to any other associated costs in connection with extending the lease term.

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

The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce.

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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, 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.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

The recommendations made in this report do not appear to conflict with the Council's policy on Environmental and Climate implications.

BACKGROUND PAPERS

None.

APPENDICIES

Appendix A Valuation report for 240 Chase Cross Road, Romford, RM5 3XP.
Exempt

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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

Details of decision maker



Signed

Name: **Patrick Odling-Smee**

Cabinet Portfolio held:
CMT Member title: Director of Housing
Head of Service title
Other manager title:

Date: 14th November 2022

Lodging this notice

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____

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Executive Decision Report Audit Trail

Position/Title	Directorate	Date Sent	Date received	Date Cleared
	Cabinet Lead			
	Member			
	SLT Director			
	Legal			
	Finance			
	Human			
	Resources			
	Equalities			
	Health			
	Democratic			
	Services			