



Havering
LONDON BOROUGH

Notice of Non-key Executive Decision

Subject Heading:	Subject Property: Rainham Recreation Ground, Viking Way, Rainham, Essex RM13 9YG Event: Deed of Grant to lay a gas main at the above property
Decision Maker:	Mark Butler, Director of Asset Management
Cabinet Member:	Councillor Graham Williamson – Cabinet Member for Development and Regeneration
SLT Lead:	Dave McNamara – Interim Section 151 Officer
Report Author and contact details:	London Borough of Havering (LBH) Dale Wilkins Principal Property Surveyor Property Services Town Hall Main Road Romford RM1 3BD Tel: 01708 433 669 E: dale.wilkins@oneSource.co.uk
Policy context:	Asset Management Plan
Financial summary:	There is no income or expenditure associated with this deed
Relevant OSC:	Overview & Scrutiny Board
Is this decision exempt from being called-in?	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

People - Things that matter for residents

Place - A great place to live, work and enjoy

Resources - A well run Council that delivers for People and Place.

Non-key Executive Decision

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

To approve the grant of an easement to Cadent Gas Limited for the purpose of installing a new gas main at Rainham Recreation Ground, Viking Way, Rainham RM13 9YG, as indicated on the attached plan.

Rainham Recreation Ground is designated as open space. This means that pursuant to section 123(2A) of the Local Government Act 1972, the Council would need to advertise in a local newspaper any intention it has to dispose of any open space land and consider any objections received from residents.

The Council is under a statutory duty not to dispose its land for a consideration less than the best that can be reasonably obtained in the market, except with the express consent of the Secretary of State (section 123(1), LGA 1972).

Since the Council has requested for the gas connection, the Council will not be receiving a payment/consideration in exchange for granting rights to Cadent. Since Cadent are a statutory undertaker, Property Services are satisfied that the terms entered into are the best terms available for the Council.

The easement is required to enable a gas connection to the leisure centre which serves the Borough.

AUTHORITY UNDER WHICH DECISION IS MADE

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

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

3.9 Functions relating to the OneSource Group of Services

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.

Non-key Executive Decision

OneSource Joint Committee Scheme of Delegations (December 2018 current)

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

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

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

STATEMENT OF THE REASONS FOR THE DECISION

The subject parcel of land forms part of the Rainham Recreation Ground, which is located to the north of Rainham Village. Immediately adjoining the west of the recreation ground is a Council operated pay and display car park, providing 32 spaces, adjoining this car park is the car park associated with Tesco Extra. To the east is Rainham Village Primary School and Children's Centre.

On 15th January 2020 Cabinet agreed in principle that the Rainham Recreation Ground site be progressed as the site for a new leisure centre subject to a successful planning application and that the tendering of the construction be progressed.

Full planning consent has been granted for the subject parcel of land for the erection of a single storey building to provide a new leisure centre comprising; swimming pool, gym, fitness/dance studios and associated changing facilities; together with alterations to the existing layout of the remaining park area, including relocation of existing pay and outdoor gym equipment, application number P1125.20, dated 8th October 2021.

The contract to construct was authorised and let to Piperhill Construction Ltd. Construction works commenced and are programmed to complete in June 2023.

Non-key Executive Decision

This authority seeks approval to legally complete the agreed Deed of Grant between The London Borough of Havering, Cadent Gas Limited and their sub-contractors Fulcrum Infrastructure Services Limited to facilitate the installation of a mains gas supply to the Leisure Centre.

The grant of the easement to the utility company will facilitate the installation (and all necessary reinstatement works) and maintenance of their apparatus on Council's land and hence facilitate the installation of a mains gas supply into the Rainham Leisure Centre which is currently under construction.

OTHER OPTIONS CONSIDERED AND REJECTED

Refuse to grant and enter into the Deed of Grant

Rejected – The decision not to grant the easement will be an impediment to the proposed development as the completed Leisure Centre would not be connected to the required service.

PRE-DECISION CONSULTATION

The form of deed has been reviewed by Legal Services in consultation with the Assistant Director Culture and Customer Services.

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

Name: Dale Wilkins

Designation: Principle Property Surveyor



Signature:

Date: 30th March 2023

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The easement to the gas distribution company and the external contractor is classified as a disposal.

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 will also seek to rely on its powers under s123 Local Government Act 1972 (Act) when granting the deed of grant. 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.) The property services officer has confirmed that the ‘best consideration’ duty has been satisfied.

Alongside its duty not to dispose of land for less than the best consideration, the Council, will need to comply with its procedural requirements to advertise its intention to dispose of open space. Under section s123(2A) of the Act, the Council is required to advertise its intention in a local newspaper for two consecutive weeks and to consider objections. Since the land to be disposed of forms part of ‘open space land’, this procedural requirement will need to be complied with prior to any final decision being made.

The gas distribution company is classified as a statutory undertaker and is a body that performs obligations under its statutory powers including but not limited to the Gas Act 1986.

The form of easement to be entered into by the Council is the standard precedent for the gas distribution company and its external contractor. Minor amendments have been accepted by the gas distribution company to reflect that the land being disposed of is ‘open space land’.

On completion of the easement, a report of completion will be prepared by Legal Services which will record the transaction. The report of completion will be circulated to the relevant Council departments.

FINANCIAL IMPLICATIONS AND RISKS

There is no income or expenditure associated with the granting of this easement. The easement is required in order to complete the Rainham Leisure Centre building works. There are no financial risks associated with granting this easement, conversely, there is a risk of incurring additional costs in relation to the build due to delays if the gas easement is not signed.

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

No human resources implications and risks have been identified.

Non-key Executive Decision

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

There are no equalities and social inclusion implications and risks associated with this decision.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

The Havering Climate Change Action Plan (HCCAP) was approved by Cabinet on 10th November 2021 which outlines all of the key initiatives, goals and objectives to meet the Council's carbon neutral ambitions by 2040.

In this regard the Council have made a commitment to establish a proactive approach when developing and commissioning new facilities such as this with the aim of achieving a low-carbon emitting buildings.

The original report would have taken on board any climatic and environmental impact of undertaking the physical works to the site, however the actual granting of this easement does not have any direct impact on the climate or the environment.

BACKGROUND PAPERS

None.

APPENDICIES

Appendix A – Plan (91)11b – Gas Easement 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

Position: Director of Asset Management

Date: 4th April 2023

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 _____