

Notice of NON KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt. An Exempt Version of this report, and Appendices A, B and C are not available for public inspection as they contain or relate 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 commercial and confidential information which may be shareholder sensitive in nature and relating to ongoing negotiations with a private company, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Subject Heading:	Rainham and Beam Park Regeneration LLP: Development Manager Appointment & Development Support Services Appointment – Reduction to Scope of Services
Cabinet Member:	Councillor Graham Williamson
SLT Lead:	<i>Neil Stubbings, Director of Regeneration</i>
Report Author and contact details:	Harry Scarff, Regeneration Manager (Regeneration) 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.
Financial summary:	This Executive Decision sets out information relating to the proposed changes in scope of services provided to Rainham and Beam Park

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	Regeneration LLP in which the council is a partner.
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The subject matter of this report deals with the following Council Objectives

Place - A great place to live, work and enjoy

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

This Executive Decision requests approval of the Council, as a Member of the **RAINHAM AND BEAM PARK REGENERATION LLP**, to **APPROVE**:

1. That the LLP reduces: a) the scope of services provided to it by the Development Manager and Development Support Services Manager; and b) the fees payable by it to the Development Manager and Development Support Services Manager, as set out in this paper and associated appendices;
2. That the LLP enters into a Deed of Variation with, the provider of Development Management Services, in respect of the reduced services and fees payable pursuant to the Development Management Agreement (DMA) (the “**DMA Variation**”);
3. That the LLP enters into a Deed of Variation with the Council in respect of the reduced services and fees payable pursuant to the Development Support Services Agreement (DSSA) (the “**DSSA Variation**”);
4. That the LLP Members, including this Council, enter into a letter of comfort that waives any rights against other parties to the Members’ Agreement in relation to breaches of the Members’ Agreement to the extent they are caused by the DMA Variation or DSSA Variation (the “**Letter of Comfort**”);
5. That the Director of Regeneration signs the written members’ resolutions on behalf of the Council approving the LLP to enter in to the DMA Variation, DSSA Variation and Letter of Comfort.

This Executive Decision requests approval of the Council to further APPROVE:

6. That the Director of Regeneration agrees the DSSA Variation on behalf of the Council

AUTHORITY UNDER WHICH DECISION IS MADE

The authority in the Constitution under which the executive decision or key decision is made is as follows;

3.3 Powers of Members of the Senior Leadership Team

Members of the Senior Leadership Team (SLT) have delegated authority to act as follows within the assigned service service/portfolio of responsibilities, subject to the general provisions and limitations set out in section 3.1 above.

General powers

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(a) To take any steps necessary for proper management and administration of allocated portfolios.

Financial Powers:

(a) To incur expenditure within the revenue and capital budgets for their allocated portfolio as approved by the Council, or as otherwise approved, subject to any variation permitted by the Council's contract and financial procedure rules.

STATEMENT OF THE REASONS FOR THE DECISION

The Rainham and Beam Park Regeneration LLP (LLP) is a 50/50 Joint Venture between the Council and Notting Hill Commercial Properties, part of Notting Hill Genesis (NHG). The LLP is tasked with delivering a scheme of residential led regeneration across 9 comprehensive development sites along the A1306 New Road corridor in Rainham.

The original business plan agreed by the LLP, along with subsequent reviews, has been overtaken by significant uncertainties arising from Brexit, the Covid-19 pandemic, delays to delivery programme, development cost uplift, inflation and economic contraction. These have been further compounded by the position taken by the Department for Transport to support the construction and opening of the proposed Beam Park Station.

These decisions have resulted in a need to vary the scope of activities currently being undertaken by the LLP. To reflect this, LBH (as LLP Member) put forward a proposal to vary the scope of services and the fees payable by the LLP to the Development Manager and Council respectively, to a) reflect the current scope of activity; b) to reduce the LLP's costs; and c) reduce the Council's financial contributions, whilst matters giving rise to the uncertainty are addressed.

OTHER OPTIONS CONSIDERED AND REJECTED

Termination of the agreements was considered as an option but, following advice, it was considered that termination of these services would expose the Members for the LLP to risk in fulfilling their duties under the Members Agreement.

Therefore the termination option was rejected.

PRE-DECISION CONSULTATION

N/A


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

Name: Harry Scarff

Designation: Commercial Manager (Regeneration)

Signature:



Date: 17.05.2023

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The DMA Variation and DSSA Variation is considered a Consent Matter under the Member's Agreement ("**MA**"), with reference to paragraph 3 of Schedule 3 (Consent Matters) of the Member's Agreement which states:

- "3 entering into, terminating or **varying** any contract terms or arrangement (whether legally binding or not) with:
- 3.1 any Member;
 - 3.2 any company which is a member of **the PSDP's Group or the Council's Group**; or
 - 3.3 any person connected with the PSDP or a member of the PSDP's Group or a member of the Council's Group;"

The Council has taken external legal advice on the matter.

Changes to both the DMA and DSSA will need to be made in writing to comply with the terms of the respective agreements

Before the LLP can enter into the variations each Member of the LLP will require a member resolution agreeing that the LLP can enter into the variations because the variations will fall within paragraph 3 of Schedule 3 of the MA and thus constitute a Consent Matter. This consent is conveyed through the execution of this decision, and the Parties to the MA will also sign a members' resolution document prior to entering into the documents recording their respective consents

The DMA Variation, DSSA Variation and Letter of Comfort are drafted to address these points.

The Council may rely upon the General Power of Competence ("general power") provided for in Section 1 of the Localism Act 2011 to enter in to the DMA Variation, DSSA Variation and Letter of Comfort in its capacity as both LLP Member, and, in the case of the DSSA Variation, as the Council itself. The general power is a wide power which allows the Council to do anything that an individual may do (subject to public law principles) and certain exemption, but those do not apply in this case.

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

The Rainham and Beam Park Regeneration programme 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.

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.

'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 reduce the scope of the described services there are no adverse implications or risks associated with the Council's statutory duty.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

No implications

BACKGROUND PAPERS

None

APPENDICIES

Appendix A; Draft Deed of Variation of the Development Management Agreement in relation to Rainham and Beam Park Development; **Exempt**

Appendix B; Draft Deed of Variation of the Development Support Services Agreement; **Exempt**

APPENDIX C Draft Rainham and Beam Park Development – Letter of comfort in relation to

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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: Neil Stubbings, Director of Regeneration

Date: 2nd June 2023

Lodging this notice

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

For use by Committee Administration

This notice was lodged with me on _____

Signed _____