

## Notice of NON KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendix A not available for public inspection as it contains or relate or to exempt information within the meaning of paragraph of Schedule 12A to the Local Government Act 1972. It is exempt because it *refers to confidential matters*, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

<b>Subject Heading:</b>	<b>Deed of Easement</b> relating to Land adjacent to 20 Sunrise Avenue, Hornchurch, RM12 4YS
<b>Decision Maker:</b>	Jonathan Brown (Head of Property Services)
<b>Cabinet Member:</b>	Councillor Paul McGeary Cabinet Member for Housing
<b>SLT Lead:</b>	Neil Stubbings (Director of Regeneration)
<b>Report Author and contact details:</b>	Clement Ojediran - Development Surveyor DDI: 01708 434 131 Email: clement.ojediran@havering.gov.uk
<b>Policy context:</b>	Council's Corporate Asset Management Plan
<b>Financial summary:</b>	None
<b>Relevant OSC:</b>	Places
<b>Is this decision exempt from being called-in?</b>	Yes. It is exempt, as it is a Non-Key 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 [x]

Place - A great place to live, work and enjoy

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

## Part A – Report seeking decision

### DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

On 27<sup>th</sup> April 2021 the London Borough of Havering granted planning permission for the new development comprising 175 dwellings at the former site of Solar Court, Serena Court and Sunrise Lodge under Application Reference P1809.19.

The proposed development requires the breaking up and reconstruction of the existing access that currently serves dwellings at the existing site. The new roadway runs adjacent to and along the boundary of 10 to 24 Sunrise Avenue.

The Council have agreed with the resident of 20 Sunrise Avenue to install a gate within the rear boundary of the property leading to the new roadway provided that the resident acknowledges the suitability and risk involved with the use of the new gate.

The Council has agreed to grant to the owner of 20 Sunrise Avenue a right of vehicular access for the purpose of loading and unloading only and a right of access by bicycle on the terms contained in the Deed – including a prohibition on parking or causing obstructions to the new development and an acknowledgement of the risk of using the roadway.

The recommendations in this report are in accordance with the delegated authority to the Head of Property pursuant to Part 3.9 of the Council's Constitution and the Scheme of Delegation approved by the OneSource Joint Committee.

#### Recommendations

1. The Council's solicitor be instructed to prepare the Deed of Easement in liaison with relevant adjoining homeowner and complete the process as soon as possible.
2. The Head of Property, in consultation with the Director of Legal and Governance, be authorised to deal with all matters arising and thereafter grant the Easements to individual adjoining homeowners.

### AUTHORITY UNDER WHICH DECISION IS MADE

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

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### **3.9.3 Asset Management Functions**

#### **(i) 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.
  
- (ix) 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.

#### **OneSource Joint Committee Scheme of Delegations (December 2018 current)**

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

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

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

#### **STATEMENT OF THE REASONS FOR THE DECISION**

The site originally accommodated 55 dwellings and was serviced by an existing adopted roadway off Sunrise Avenue. The new development, which now consists of 175 dwellings, requires the re-construction of the original roadway. The existing roadway, which was an adopted highway, was stopped up to make way a new roadway which is now private.

The new roadway is adjacent to the rear garden of 20 Sunrise Avenue. During the consultation for the stopping up it was agreed that the residents at 20 Sunrise Avenue will be granted access to the rear of their property provided they will not register an objection to the stopping of the existing highway and bear the risk of use of the new roadway.

Because the residents will be passing over Council's land to access the rear of their property it is necessary to have a deed of easement in place.

#### **OTHER OPTIONS CONSIDERED AND REJECTED**

The other option considered would be not to grant the easement

**Rejected** – The decision not to grant the easement to the homeowner will violate the initial arrangement that the Council had with the resident during the consultation for the stopping up of the existing adopted highway, and this would lead to further complaints and negative publicity, leading to some reputational damage to the Council.

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**PRE-DECISION CONSULTATION**

There has been formal consultation with Finance, Legal Services, Equality & Diversity and Human Resources.

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

Name: Name: Clement Ojediran

Designation: Development Surveyor

Signature: 

Date: 31<sup>st</sup> August 2023

## Part B - Assessment of implications and risks

### LEGAL IMPLICATIONS AND RISKS

When granting a right of way, the Council will be under an obligation not to obstruct or interfere with the exercise of that right. However, the Council will have the ability to enter onto the route in order to carry out any obligation in the deed and to make repairs to its neighbouring property.

Provided that the route of the right of way is not needed for future development or other use by the Council, there is a minimal level of legal implications or risks.

The recommendations in this report are in accordance with the delegated authority to the Head of Property pursuant to Part 3.9 of the Council's Constitution and the Scheme of Delegation approved by the OneSource Joint Committee.

#### Recommendations

The Head of Property is recommended to agree that :

1. The Council's solicitor be instructed to prepare and complete the Deed of Easement for 20 Sunrise Avenue in the form attached at exempt appendix A and complete the process as soon as possible.

### FINANCIAL IMPLICATIONS AND RISKS

There are no financial implications and risks to granting Easements to the homeowner at 20 Sunrise Avenue.

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

There are no Human Resources implications or risks in in granting Easement to the homeowner at 20 Sunrise Avenue.

### EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

There appears to be no equalities and social inclusion implications and risks.

### ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

The granting of Easement is a relatively simple matter with regard to climate change, hence there are no climate change implications and risks.

### BACKGROUND PAPERS

None

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**APPENDICIES**

**Appendix A** - Deed of Easement                      Exempt



**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: Jonathan Brown

Head of Property Services

Date: 31<sup>st</sup> August 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 \_\_\_\_\_