

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 relates 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.

Subject Heading:	Deed of Easement relating to Land adjacent to 24 Sunrise Avenue, Hornchurch, RM12 4YS
Decision Maker:	Jonathan Brown (Head of Property Services)
Cabinet Member:	Councillor Paul McGeary Cabinet Member for Housing
SLT Lead:	Neil Stubbings (Director of Regeneration)
Report Author and contact details:	Clement Ojediran - Development Surveyor DDI: 01708 434 131 Email: clement.ojediran@havering.gov.uk
Policy context:	Council's Corporate Asset Management Plan
Financial summary:	None
Relevant OSC:	Value
Is this decision exempt from being called-in?	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 27th 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 development site shares a boundary with the property at 24 Sunrise Avenue, which benefited from a right of access in accordance with the terms in the Previous Deed of Grant. The Council appropriated the development site immediately adjacent to 24 Sunrise Avenue for planning purposes and the rights granted by the Previous Deed of Grant were extinguished when the planning permission was implemented.

The Council has agreed to grant the Rights to the owner of 24 Sunrise Avenue for the benefit of the Property on the terms contained in the Deed and the parties have agreed to document the extinguishment of the right granted by the Previous Deed of Grant.

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

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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

(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.

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.

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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 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 re-construction of the roadway necessitates the breaking up of the existing road. Adjacent to the roadway is 24 Sunrise Avenue which benefits from a right of way over the Council's land, including the existing road, as for a period of 80 years starting from October 2001. The re-construction of the existing road will impact on the land adjacent to 24 Sunrise Avenue, and the right previously granted by the Council in October 2001.

In order for the road works to go ahead, there will be a need to extinguish the existing right of way and the grant of a new one in a different location to the homeowner at 24 Sunrise. The extinguishment of the existing right of way and the grant of new one will facilitate the re-construction of the new roadway and enable delivery of the development.

OTHER OPTIONS CONSIDERED AND REJECTED

The other option considered would be not to agree to extinguish the existing deed of Easement and re-issuing a new one to the homeowner.

Rejected – The decision not to grant the new Easement to the homeowner will impede the re-construction of the roadway and hence impede the timely completion of the proposed development as there will be no direct access to a major section of the new development. In addition, this could cause some reputational damage to the Council.

Non-key Executive Decision


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: 31st August 2023

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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.

FINANCIAL IMPLICATIONS AND RISKS

There are no financial implications and risks to granting Easements to the homeowner at 24 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 24 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

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: 31st 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 _____