

Notice of NON KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendix A is not available for public inspection as it contain) or relates to exempt information within the meaning of paragraph 7 of Schedule 12A to the Local Government Act 1972. It is exempt because it refers to financial and business affairs of the Tenant and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Subject Heading:	<p>Subject Property: The land known as Corner of Mercury Gardens and Victoria Road, Romford, London RM1 2LT</p> <p>Event: New Telecoms Access (MSV) Agreement</p>
Decision Maker:	Paul Walker – Director of Housing and Property
Cabinet Member:	Councillor Paul McGeary – Cabinet Member for Development and Regeneration
SLT Lead:	Neil Stubbings - Strategic Director of Place
Report Author and contact details:	<p>London Borough of Havering (LBH) Luke Kubik Estates Surveyor Property Services Town Hall Main Road Romford RM1 3BD</p> <p>Tel: 01708 434 176 E: luke.kubik@havering.gov.uk</p>
Policy context:	Asset Management Plan

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Financial summary:	The financial aspects for the transaction are detailed in the <u>EXEMPT Appendix A</u> to this Report
Relevant Overview & Scrutiny Sub Committee:	Place
Is this decision exempt from being called-in?	The decision will be exempt from call in as it is a Non key 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 (x)
- Resources - A well run Council that delivers for People and Place (x)

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

Background

The above mentioned land has been identified by Cornerstone Telecommunications Infrastructure Limited as possible site for Telecoms equipment. Under the Electronic Communications Code 2017 landowners can only refuse access and use of the site for Telecoms if it is being redeveloped.

The code puts the burden of reasonable costs onto the Telecoms provider and not the landowner.

The Councils retained agent Telemaster have agreed an Access (MSV) Agreement with the Telecoms provider. A copy of the agreement is under Appendix A.

Recommendations

It is recommended that the Council agrees that the Estates Surveyor, London Borough of Havering - Property Services instructs the Council's retained agent to complete the Access (MSV) Agreement with the Telecoms provider as per the details in Appendix A.

Decisions

Formal authority is hereby given to instruct the Estates Surveyor, London Borough of Havering - Property Services instructs the Council's retained agent to complete the Access (MSV) Agreement with the Telecoms provider as per the details in Appendix A.

AUTHORITY UNDER WHICH DECISION IS MADE

Havering Council's Constitution Part 3.3.5 (2nd April 2024 - current)

8.1 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, security and use, reviews, acquisitions and disposals, and commercial estate management.

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STATEMENT OF THE REASONS FOR THE DECISION

The Council as landowner is unable to refuse access to the site by the Telecoms provider under the Electronic Communication's Code 2017 unless the site is being developed.

OTHER OPTIONS CONSIDERED AND REJECTED

Option: Not to allow access.
Rejected: The Council as landowner is unable to refuse access to the site by the Telecoms provider under the Electronic Communication's Code 2017 unless the site is being developed. By not complying with the Electronics Code 2017 and agreeing access by way of a Access (MSV) Agreement with the Telecoms provider, the Telecoms provider can apply to the Tribunal for access and a licence. The terms for the Access (MSV) Agreement determined by the Tribunal are unlikely to be favourable to the Council.

PRE-DECISION CONSULTATION

The Councils retained agent Telemaster have acted for the Council in regards to this matter.

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

Name: Luke Kubik
Designation: Estates Surveyor
Signature:

A handwritten signature in black ink, appearing to be 'L. Kubik', is written over a light-colored rectangular background.

Date: 9th May 2024

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

By not complying with the Electronics Code 2017 and agreeing Access (MSV) Agreement with the Telecoms provider, the Telecoms provider can apply to the Tribunal for an Access (MSV) Agreement. The terms for the Access (MSV) Agreement determined by the Tribunal are unlikely to be favourable to the Council.

FINANCIAL IMPLICATIONS AND RISKS

The granting of access to the telecoms provider does not pose any financial risk or cost to the Council.

Should the site be deemed suitable the Council's retained agent will negotiate Heads for Terms for letting the site to the Telecoms provider and any further governance required in order to complete the lease will be carried out at that time.

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

No human resources implications and risks have been identified.

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, 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-economics and health determinants.

An EqHIA (Equality and Health Impact Assessment) is usually carried out when a proposed or planned activity is likely to affect staff, service users, or other residents.

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The Council seeks to ensure equality, inclusion, and dignity for all in all situations.

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

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

No Environmental and Climate Change implications identified.

BACKGROUND PAPERS

None

APPENDICES

Appendix A Proposal for an Access (MSV) Agreement - 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: **Paul Walker**

Cabinet Portfolio held:

CMT Member title:

Head of Service title: Interim Director – Housing & Property Place Directorate

Other manager title:

Date: **09.05.24**

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 _____