

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 1 & 3 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: Land opposite 141 Amersham Road, Romford, RM3 JA</p> <p>Event: Wayleave agreement for installation of electronic equipment</p>
Decision Maker:	Mark Butler - Assistant Director of Regeneration & Place Shaping
Cabinet Member:	Councillor Paul McGeary – Cabinet Member for Housing and Property
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 had been identified by Virgin Media for the installation of a new cabinet along with the required ducting, jointing chamber and associated cables and equipment. Work has already taken place and been completed and a retrospective wayleave agreement is required.

The Council's retained Telecoms Surveyors, Telecaster, has negotiated Heads of Terms for a wayleave agreement to allow the installation to take place under the Electronic Communications Code as set out in Schedule 3A to the Act as amended by the Digital Economy Act 2017.

A wayleave agreement has been drafted by Birketts on behalf of Virgin Media for review and signing by the Council.

The land in question falls under Land Registry title number EGL499303.

Recommendations

It is recommended that the Council agrees to the wayleave agreement for the new telecoms equipment, the Estates Surveyor LBH - Property Services will instruct Legal to review the provided Wayleave and countersign to complete the Wayleave agreement.

Decisions

Formal authority is hereby given for the Council to agree to the wayleave agreement for the new telecoms equipment, the Estates Surveyor LBH - Property Services is to instruct Legal to review the provided Wayleave and countersign to complete the Wayleave agreement.

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.

STATEMENT OF THE REASONS FOR THE DECISION

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Under the Electronic Communications Code Act as amended by the Digital Economy Act 2017 have the right to apply to Court to install telecommunications equipment in the event agreement is not reached or given which would be costly. Additionally the equipment is already installed.

OTHER OPTIONS CONSIDERED AND REJECTED

Option: Not to agree to the wayleave agreement for the new telecoms supply.
Rejected: Due to the rights given to Telecoms operators under the Electronic Communications Code Act as amended by the Digital Economy Act to apply to Court for an agreement and the fact that the equipment is already present, there is no reason not to agree to the Wayleave.

PRE-DECISION CONSULTATION

None

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

Name: Luke Kubik
Designation: Estates Surveyor
Signature:



Date: 12th June 2024

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Council has a general power of competence under Section 1 of the Localism Act 2011, which gives the power to do anything an individual can do, subject to any statutory constraints on the Council's powers ("the General Power"). The recommendations in this report are in keeping with the General Power.

Local Government Act 1972 Section 111 Subsidiary powers of local authorities
Without prejudice to any powers exercisable apart from this section but subject to the provisions of this Act and any other enactment passed before or after this Act, a local authority shall have power to do any thing (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions. This is a minor matter that will be completed by the Legal Department.

FINANCIAL IMPLICATIONS AND RISKS

The Grantee, will pay the Councils legal fees associated with the Wayleave Agreement as well as any other costs incurred.

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.

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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.

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 Wayleave Summary 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: Mark Butler

Position: Assistant Director of Regeneration & Place Shaping

Date: 12th June 2024

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 _____