

## Notice of NON KEY Executive Decision containing exempt information

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

<b>Subject Heading:</b>	<p><b>Subject Property:</b> Land at Front Lane, Havering, Cranham, Greater London RM14 1LH</p> <p><b>Event:</b> MSV Agreement</p>
<b>Decision Maker:</b>	Paul Walker - Director of Housing and Property
<b>Cabinet Member:</b>	Councillor Paul McGeary – Cabinet Member for Housing and Property
<b>SLT Lead:</b>	Neil Stubbings - Strategic Director of Place
<b>Report Author and contact details:</b>	<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: <a href="mailto:luke.kubik@havering.gov.uk">luke.kubik@havering.gov.uk</a></p>
<b>Policy context:</b>	Asset Management Plan
<b>Financial summary:</b>	The financial aspects for the transaction are detailed in the

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	<u>EXEMPT Appendix A and B to this Report</u>
<b>Relevant Overview &amp; Scrutiny Sub Committee:</b>	Place
<b>Is this decision exempt from being called-in?</b>	<b>The decision will be exempt from call in as it is a Non key Decision</b>

**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 a 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. Should the site be acceptable for the proposed Telecoms equipment then the Council is required to agree terms for a Licence under the Electronic Communications Code 2017.

The code puts the burden of costs on to the Telecoms provider and not the landowner.

The Council's retained agent Telemaster have agreed Terms with the Cornerstone Telecommunications Infrastructure Limited for an access agreement. The terms are detailed in Appendix A.

#### **Recommendations**

It is recommended that the Council agrees that the Estates Surveyor, London Borough of Havering - Property Services instructs the Council's legal team to check, amend and sign the MSV agreement as per the details in Appendix A.

#### **Decisions**

Formal authority is hereby given to instruct the Estates Surveyor, London Borough of Havering - Property Services to instruct the Council's legal team to check, amend and sign the MSV agreement as per the details in Appendix A.

### AUTHORITY UNDER WHICH DECISION IS MADE

Havering Council's Constitution Part 3.3.5 (2<sup>nd</sup> 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

The Council as landowner is unable to refuse access to the site and subsequently the use of the site by the Telecoms provider under the Electronic Communication's Code 2017, unless the site is being redeveloped.

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**OTHER OPTIONS CONSIDERED AND REJECTED**

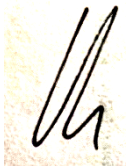
Option: Not to allow access and agree to the MSV Agreement.  
Rejected: The Council as landowner is unable to refuse access to the site and subsequently the use of the site by the Telecoms provider under the Electronic Communication's Code 2017 unless the site is being developed. By not complying with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

**PRE-DECISION CONSULTATION**

The Council's 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:



Date: 22<sup>nd</sup> May 2024

## Part B - Assessment of implications and risks

### LEGAL IMPLICATIONS AND RISKS

By not complying with the Electronics Code 2017 and agreeing access and a licence with the Telecoms provider, the Telecoms provider can apply to the Tribunal for access and a licence. The terms for the agreements as determined by the Tribunal are unlikely to be favourable to the Council.

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.

### 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. This detail will be provided in a separate Executive Decision.

### 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;

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(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.

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**

<b>Appendix A</b>	MSV Agreement Summary	Exempt
<b>Appendix B</b>	MSV Agreement	Exempt

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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

A handwritten signature in black ink that reads "P Walker". The letter "P" is large and stylized, with a vertical line extending downwards. The name "Walker" is written in a cursive script to the right of the "P".

Name: **Paul Walker**

Cabinet Portfolio held:

CMT Member title:

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

Other manager title:

Date: **28.05.24**

**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 \_\_\_\_\_

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