



**Havering**  
LONDON BOROUGH

## Notice of Non-Key Executive Decision

<b>Subject Heading:</b>	Denver Industrial Estate, Ferry Lane (S278) Authority to enter into an agreement made under S278 Highways Act 1980
<b>Decision Maker:</b>	Imran Kazalbash Director of Environment
<b>Cabinet Member:</b>	Cllr. Barry Mugglestone Environment
<b>ELT Lead:</b>	Neil Stubbings Strategic Director of Place
<b>Report Author and contact details:</b>	Inioluwa Owoyemi Highways Engineer Schemes 01708 432837 <a href="mailto:inioluwa.owoyemi@havering.gov.uk">inioluwa.owoyemi@havering.gov.uk</a>
<b>Policy context:</b>	National Planning Policy Framework (2019) London Plan (2019) <b>Havering Local Implementation Plan 2018/19 Delivery Plan</b>
<b>Financial summary:</b>	<p>The full costs of s278, legal fees, technical fees, maintenance contributions and implementation of the works will be met by the respective developers.</p> <p>Income to be received by the Council from the aforementioned totals £0.038m of which £0.018m will be held for future maintenance.</p> <p>The Council will also hold a deposit of £0.092m to cover costs of making good possible works in default.</p>
<b>Relevant Overview &amp; Scrutiny Sub Committee:</b>	Environment

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<b>Is this decision exempt from being called-in?</b>	<i>The decision will be exempt from call in as it is a Non key Decision</i>
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**Non-key Executive Decision**

**The subject matter of this report deals with the following Council Objectives**

People - Supporting our residents to stay safe and well

Place - A great place to live, work and enjoy [x]

Resources - Enabling a resident-focused and resilient Council

**Part A – Report seeking decision**

## Non-key Executive Decision

### **DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION**

This Executive Decision authorises the Council entering into a highway agreement made under S278 of the Highways Act 1980 to allow changes to the highway to be made to create new accesses on to Ferry Lane, Rainham from Denver Industrial Estate in pursuant to the following planning consent:

Location: Denver Industrial Estate, Ferry Lane, Rainham RM13 9DD

Planning Application Ref: P1962.17 Application for Reserved Matters of outline planning approval: P0191.16 for the 'construction of a new industrial estate (B1, B2 and B8 use classes)

### **AUTHORITY UNDER WHICH DECISION IS MADE**

Council's Constitution

Part 3, Section 3.3.5, paragraphs 1.1 and 1.4;

*1.1 Other than in those matters delegated to the Lead Member following consideration by the Highways Advisory Committee, to exercise all powers and duties in respect of maintaining and improving highways, providing facilities, and interference with highways arising under Parts IV, V, VII, IX and XIV of the Highways Act 1980;*

*1.4 To exercise all powers and duties under the Highways Act 1980 that are not delegated to the Leader or Cabinet Member.*

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

A development has been granted planning consent under P1962.17 which includes access works and general footway works on Ferry Lane, Rainham.

Where works are required to make changes to the existing highway (new junctions, accesses or related works), developers are required to enter into an agreement made under S278 of the Highways Act 1980 in order for the works to be able to take place.

Ferry Lane, Rainham is adopted highway and maintained by public expense. s278 of the Highways Act 1980 makes further provisions so that the costs associated with making the agreement for the highway works, meeting other highway authority costs, maintenance contribution and deposit payment to cover costs of making good for possible works in default are recoverable from the developer through the agreement.

The proposals are shown on the following drawing numbered:

9867 PTA XX XX DR C 8400 P05; 9867 PTA XX XX DR C 8410 P05; 9867 PTA XX XX DR C 8420 P03; 9867 PTA XX XX DR C 8430 P05; 9867 PTA XX XX DR C 8500

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P01; 9867 PTA XX XX DR C 8490 P03; 9867 PTA XX XX DR C 8480 P05; 9867 PTA XX XX DR C 8470 P05; 9867 PTA XX XX DR C 8450 P03; 9867 PTA XX XX DR C 8440 P05 and 9867 PTA XX XX DR C 8460 P03

**OTHER OPTIONS CONSIDERED AND REJECTED**

For S278 works, the alternative option of doing nothing is not considered appropriate given the developments have planning consent and the Council cannot use its highway powers to frustrate the lawful implementation of a planning consent in terms of providing new access.

**PRE-DECISION CONSULTATION**

None.

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

Name: IniOluwa Owoyemi

Designation: Schemes Engineer

Signature:

Date: 18/07/2024

## Part B - Assessment of implications and risks

### LEGAL IMPLICATIONS AND RISKS

The Council's Constitution requires a formal decision to be taken before an agreement made under S278 of the Highways Act 1980 can be entered into and the authority for such is delegated to the Assistant Director for Environment.

S278 of the Highways Act 1980 provides for “agreements as to the execution of works” if the highway authority is satisfied that they will be of benefit to the public.

Where a development has been granted planning consent which includes physical changes to the existing highway network, it is deemed that the works will be of benefit to the public given the principles and details of the changes have been examined through the planning process.

S278 of the Highways Act 1980 makes further provisions so that the costs associated with making the agreement, the works, other highway authority costs and maintenance payments are recoverable from the developer through the agreement.

### FINANCIAL IMPLICATIONS AND RISKS

All costs associated with the works will be secured with the s278 agreement to ensure the Council's reasonable costs are met.

The full costs for the implementation of the works totalling to £0.090m will be met by the developer.

Income to be received by the Council from the development totals £0.038m which comprises of £0.012m for Technical Fees, Maintenance contribution of £0.018m and Legal and Finance fees of £0.005m. This sum will be held under project code (**QU 013**) and monitored through the road adoptions revenue budget.

Technical fees are calculated as 12.5% of the full project cost subject to a minimum fee of £6,500 per project which equates to £0.012m. The technical fee allows for at least 72 hours of staff time per project with larger schemes providing a larger fee and therefore more hours of staff time. In all cases it is anticipated that this work will be contained within the allowed hours.

As part of the agreements, the developer will pay a maintenance contribution fixed at 20% of the total cost of works which equals £0.018m to the Council to help cover future maintenance costs. This sum will be held under a specified project code and monitored through the road adoptions revenue budget.

Provisions will be made by way of deposit for the making good works defaults, set at 100% works cost. Assuming the projects are completed without defects the deposit value will be returned to the developer(s). In the case of the agreement set out in this report, the developer will provide a deposit to the value of £0.092m. The deposit will be held on the balance sheet.

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The income generated from the developer through the agreement is set out below:

<u>Item</u>	<u>£m</u>
Technical Fees - A01.A24020.516460.8034.000000.604196.000000	£0.012
Maintenance Contribution - A01.A24020.516460.0000.000000.604196.000000	£0.018
Traffic order for parking restrictions A01.A24020.516460.0000.000000.604196.000000	£0.003
Legal Fees: Flat rate of £0.005m	£0.005
Finance Admin Fee – rate of £250	£0.000
<b>Total</b>	<b>£0.038</b>

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

None arising from this decision.

### **EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

The Council has a general duty under the Equality Act 2010 to ensure that its highway network is accessible to all. Where infrastructure is provided or substantially upgraded, reasonable adjustments should be made to improve access. In considering the impacts and making improvements for people with protected characteristics (often, but not limited to disabled people, the young and older people), this will assist the Council in meeting its duty under the Act.

Havering has a diverse community made up of many different groups and individuals. The council values diversity and believes it essential to understand and include the different contributions, perspectives and experience that people from different backgrounds bring.

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.

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The council demonstrates its commitment to the Equality Act in its decision-making processes, the provision, procurement and commissioning of its services, and employment practices concerning its workforce. In addition, the council is also committed to improving the quality of life and wellbeing of all Havering residents in respect of socio-economics and health determinants.

The Technical Approval process which leads to the drawings supporting the s278 agreements will give consideration to ensuring the Council's duties are met.

**ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS**

N/A

**BACKGROUND PAPERS**

None.

**APPENDICES**

None.

**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: **Imran Kazalbash**  
Director for Environment

Date: 05/09/2024

**Lodging this notice**

The signed decision notice must be delivered to Committee Services, in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on \_\_\_\_\_

Signed \_\_\_\_\_