

Notice of Non-key Executive Decision

This Non-key Executive Decision is a record of the actions taken by officers to enact a decision previously taken by Cabinet and delegated to officers. It serves as a public record of the outcome of those actions in delivery of those delegations and decisions.

This Report is part exempt. This Exempt Report, Appendix A to the Open Report, is not available for public inspection as it contains or relates to exempt information within the meaning of paragraph 3 of Schedule 12A to the Local Government Act 1972. This is exempt because they refer to commercial and confidential information, which may be shareholder sensitive in nature and relating to ongoing negotiations with a private company, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Subject Heading:	Rainham and Beam Park Regeneration LLP – Execution of preferred Delivery Option and creation of new nominee company.
Decision Maker:	Neil Stubbings – Strategic Director Place
Cabinet Member:	Councillor Graham Williamson. Cabinet Member for Development & Regeneration.
SLT Lead:	Neil Stubbings – Strategic Director Place
Report Author and contact details:	Harry Scarff – Regeneration Manager. Harry.Scarff@havering.gov.uk Tel: 01708 433255

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Policy context:	This Executive Decision enacts a series of decisions previously taken by Cabinet on July 18 th , 2023 and made in the context of the promotion of the policy to regenerate the area defined by the Rainham and Beam Park Housing Zone.
Financial summary:	<p>This Non-key Executive Decision is a record of the actions taken by officers to enact a decision previously taken by Cabinet on July 18th, 2023 and delegated to officers.</p> <p>The settlement sum falls within the parameters approved by Cabinet on July 18th 2023</p>
Relevant Overview & Scrutiny Sub Committee:	Places
Is this decision exempt from being called-in?	The decision will be exempt from call in as it is a Non key Decision

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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 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

This Non-key Executive Decision is a record of the actions taken by officers to enact a decision previously taken by Cabinet and delegated to officers. It serves as a public record of the outcome of those actions in delivery of those delegations and decisions.

On 19th July 2023 Cabinet considered three possible approaches the council might take having been informed by their joint venture partner of their desire to exit the joint venture, which was established as an LLP.

Cabinet subsequently approved the recommendation that entailed the voluntary sale of the joint venture partner's interest in the LLP to the council, the termination of related agreements and separately for the voluntary sale of properties already acquired by the JV partner, to the council.

Pursuant to this approval, the Strategic Director of Place was authorised, having consulted with the Section 151 Officer and the Monitoring Officer, to finalise and enter into all necessary legal and commercial agreements to bring into effect the decision of Cabinet.

Following on from the approval of recommendations, negotiations and due diligence has progressed in accordance with the authorities provided by Cabinet and in contemplation of the exercise of those authorities.

A company entity, to be wholly owned by the Council and set up specifically for this purpose called "Rainham and Beam Park Regeneration Nominee Company Limited" (the **Nominee Co**) has also been established to replace the Council's JV partner Notting Hill Commercial Properties, NHCPL, to become the second member and partner in the LLP alongside the Council.

Having progressed negotiations and the preparation of the necessary agreements, and having concluded the required consultation with the s151 Officer and Monitoring Officer, the following **actions** are to be taken:

1. To conclude and finalise the establishment of the new Nominee Company, to be named Rainham and Beam Park Nominee Company Limited and to confirm the appointment of the director of that company.

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2. To arrange for the necessary administration and insurance provisions of the nominee company.
3. For a Council Member Representative to sign written resolutions of the LLP on behalf of the LLP prior to entering into the Members Interest Purchase Agreement.
4. For a Council representative to sign written resolutions of the LLP on behalf of the Council as member prior to entering into the Members Interest Purchase Agreement.
5. For the Council to enter into the Members Interest Purchase Agreement, to be executed as a deed.
6. For the Council in its capacity as LLP Member to enter into the Members Interest Purchase Agreement.
7. For a Council Member Representative to sign written resolutions of the LLP on behalf of the LLP after entering into the Members Purchase Agreement to join the Nominee Company as a member
8. For the director of the Nominee Company to sign written resolutions of the LLP after entering into the Members Interest Purchase Agreement agreeing to become the second member of the LLP.
9. For the Council to enter into the Property Sale Contract, to be executed as a deed.
10. For the Council to enter into the Transfer (TR5), to be executed as a deed.
11. If required, for the Council to enter into the Deed of Assignment of Arrears, to be executed as a deed.
12. For the Council to enter into the Deed of Assignment of Rent Deposits, to be executed as a deed.
13. For the Council to enter into the Deed of Assignment of Compensation, to be executed as a deed.
14. For the Council to enter into the Deed of Novation of the Guardianship Agreement, to be executed as a deed.
15. For the Council to put in place all necessary property insurance and property management arrangements.
16. For the Council to arrange the issue of all necessary rent authority letters and arrange for any other matters ancillary to the transfer of property interests.
17. For the Council in its capacity as LLP Member to enter into the Administrative Services Termination and Settlement Agreement, to be executed as a deed.
18. For the Council in its capacity as LLP Member to enter into the Development Management Services Termination and Settlement Agreement, to be executed as a deed.
19. For the Council to enter into the CPO Termination and Settlement Agreement, to be executed as a deed.
20. For the Council to enter into the Strategic Land Termination Agreement, to be executed as a deed.
21. For the council in its capacity as LLP Member to enter into the Strategic Land Agreement, to be executed as a deed.
22. For the Council, in its capacity as LLP Member, to accept duly executed letters of resignation from the NHCPL Member Representatives of the LLP.
23. For the Council, in its capacity as LLP Member, to accept the duly executed letter of termination from one of its nominated representatives.
24. For the Council to enter into the Conformed Members Agreement, to be executed as a deed.

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25. For the Council in its capacity as LLP Member to enter into the Conformed Members Agreement, to be executed as a deed.
26. For the Nominee Company to enter into the Conformed Members Agreement, executed as a deed.
27. For the Council, in its capacity as LLP Member, to accept the duly executed letter of appointment of the Nominee Company nominated representative to join the board of the LLP.
28. For the Council and the Nominee Company, in their respective capacity as Members of the reconstituted LLP, to appoint accountants, auditors and to arrange necessary insurances and banking facilities.

These recommendations and the actions necessary to conclude them are set out in further detail in Exempt Appendix A. This includes a review of actions taken following from the Cabinet Approval of 19th July 2023, including negotiations and due diligence.

AUTHORITY UNDER WHICH DECISION IS MADE

Neil Stubbings, Strategic Director, Place, following consultation with the s151 officer and Monitoring Officer, is authorised to agree to the actions and recommendations identified in this paper pursuant to the decision made by Cabinet on 19th July 2023 following approval of recommendations 1-10 within the 'Rainham and Beam Park Regeneration LLP – Review of Delivery Options and Selection of a Preferred Option' Cabinet report.

STATEMENT OF THE REASONS FOR THE DECISION

The Rainham and Beam Park Regeneration LLP (**LLP**) is a 50/50 Joint Venture between the Council and Notting Hill Commercial Properties Limited (**NHCPL**). NHCPL is part of Notting Hill Genesis (**NHG**). The LLP is tasked with delivering a scheme of residential led regeneration across 9 comprehensive development sites along the A1306 New Road corridor in Rainham.

The sites, largely in industrial use, are in multiple ownerships and often in poor environmental condition; residential development values in the area are very challenging.

Site assembly was, until it was withdrawn in December 2021, to be concluded by the Council having made the Rainham and Beam Park CPO No 1 2019. Support of the land assembly activity was provided by NHG, working with the LLP, carrying out acquisitions of property through private treaty prior to the CPO inquiry.

The original business plan agreed by the LLP, along with subsequent reviews, had been overtaken by significant uncertainties arising from Brexit, the Covid-19 pandemic, delays to delivery programme, development cost uplift, inflation, the

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impact of regulatory change and economic contraction. These were further compounded by the position taken by the Department for Transport not to provide support for the construction and opening of the proposed Beam Park Station when it was expected.

This uncertainty caused the Council's partner in the LLP, NHCPL, to change its approach to regeneration and value creation through place making. Consequently, the LLP Board has been unable to agree any revised performance measures that reflected current economic conditions, and therefore developments could not continue. This divergence of views led the LLP to suspend any further progress on design, delivery and crucially further land assembly.

It was to break this deadlock and to ensure the continued operation of the LLP for its intended regeneration purposes that the Cabinet Decision referred to above was made.

This Executive Decision gives effect to that decision.

OTHER OPTIONS CONSIDERED AND REJECTED

Options were considered prior to the selection of a Preferred Option by Cabinet on the 19th July 2023.

These options are set out in detail in the paper titled 'Rainham and Beam Park Regeneration LLP – Review of Delivery Options and Selection of a Preferred Option, considered by Cabinet on the 19th July 2023 prior to the Cabinet Decisions referred to above.

PRE-DECISION CONSULTATION

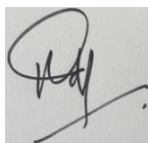
Consultation has been conducted with the Monitoring Officer and the s151 Officer.

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

Name: Harry Scarff

Designation: Regeneration Manager

Signature:



Date:24/09/24

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The legal implications of the proposed actions and recommendations are consistent with those that were set out for Cabinet in the papers, including draft Heads of Terms, provided on July 19th 2023.

The Council has undertaken a due diligence exercise in relation to its acquisition of NHCP's member interest in the LLP. The Council has in conjunction with its advisors OneSource, undertaken a due diligence exercise in relation to the properties it will be acquiring from NHG as part of the transaction.

The Council has land acquisition powers by virtue of Section 120 of the Local Government Act 1972. This Section 120 power does furthermore support the general position adopted, because it also recognises and allows acquisitions to be made for any authorised purpose "notwithstanding that the land is not immediately required for that purpose; and, until it is required for the purpose for which it was acquired, any land acquired under this subsection may be used for the purpose of any of the Council's functions." The relevant function in this case is regeneration.

Section 120 of the Local Government Act 1972 (LGA 1972) gives the Council the power to acquire land by agreement (either inside or outside the Council's area) for the purpose of any of its statutory functions or for the benefit, improvement or development of the Council's area. More widely, section 111 of the LGA 1972 provides the Council power to do anything (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 is incidental to, the discharge of any of its functions.

The Council may also rely on its general power of competence under section 1 of the Localism Act 2011 permitting it to do anything that an individual may do subject only to the limitations specified in the Act (which do not apply here). In exercising this power, the Council must ensure that it acts rationally and complies with other relevant public law constraints.

The Council's acquisition of NHCP's member interest in the LLP also requires a separate arms-length nominee company, a company limited by shares, to be the second member of the LLP alongside the Council. This company is now ready to be brought into effect.

Council officers are comfortable with the calculation of the purchase and that the purchase of the sites from NHG, and the member interest from NHCP, are on market terms. As part of due diligence, an independent review of property prices has been commissioned and provided by external advisors Ardent.

The Council and Nominee Co have agreed the terms of the Conformed Members Agreement which will determine the LLP's governance once NHCP have exited and the Nominee Co has joined as a member.

FINANCIAL IMPLICATIONS AND RISKS

The price to be paid is a summary of the Property Costs and the Purchase Costs, together with the value arrived at in the MIPA and adjusted for the sums agreed in the CPO Settlement and termination Agreement. Whilst following the procedures, set out in the SLA, for the agreement of the Property Costs and the Purchase Costs, the Council has also taken advice on property

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values. This includes a view on the opportunity cost to the council of being able to secure control of significant parts of the Strategic Plots that remain part of the Councils regeneration strategy.

Financial implications and risks related to this matter were set out in the Rainham and Beam Park Regeneration LLP – Review of Delivery Options and Selection of a Preferred Option Cabinet Report, approved by Cabinet on the 19th July 2023.

The transaction set out in this paper remains consistent with the financial implications and risks that this paper considered. These are set out in the exempt part of this report.

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

Human resources implications and risks related to this matter were set out in the Rainham and Beam Park Regeneration LLP – Review of Delivery Options and Selection of a Preferred Option Cabinet Report, approved by Cabinet on the 19th July 2023. The implications arising from this Executive Decision are consistent with that report.

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 but on this occasion, this is not required.

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

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ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

Environmental and Climate Change implications and risks related to this matter were set out in the Rainham and Beam Park Regeneration LLP – Review of Delivery Options and Selection of a Preferred Option Cabinet Report, approved by Cabinet on the 19th July 2023. The implications arising from this Executive Decision are consistent with that report.

BACKGROUND PAPERS

None

APPENDICES

Appendix A	Report and Financial Details.	Exempt
Appendix B	One Source Property Title Reports	Exempt
Appendix C	Corporate Completion Documents	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



Neil Stubbings
Strategic Director of Place

Date: 25th September 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 _____