

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 may contain or relate to exempt information within the meaning of paragraph 3 of Schedule 12 A to the Local Government Act 1972. They are exempt because they refer to information relating to the financial or business affairs of any particular person (including the authority holding that information) and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Subject Heading:	<p>Transaction: To enter into a Deed of Covenant directly with the new owners of the subject property to perform all covenants within the deed of easement.</p> <p>Property Address: Plot 1 Mardon, Maywin Drive, Hornchurch RM11 3ST known as 1 Danmar Close, Hornchurch, RM11 3ST</p>
Decision Maker:	Mark Butler, Assistant Director of Regeneration & Place Shaping.
Cabinet Member:	Cllr. Graham Williamson
ELT Lead:	Neil Stubbings
Report Author and contact details:	<p>London Borough of Havering (LBH) Christopher Pasterfield Principal Asset Surveyor Property Services Town Hall Main Street Romford RM1 3AR Tel: 01708 433 669</p> <p>E: christopher.pasterfield@havering.gov.uk</p>

Non-key Executive Decision

Policy context:	Asset Management Plan
Financial summary:	There is no cash being exchanged therefore this is not applicable. The new owner is paying the Council's legal fees.
Relevant Overview & Scrutiny Sub Committee:	Overview & Scrutiny Board
Is this decision exempt from being called-in?	The decision will be exempt from call in as it is a Non key Decision

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

Resources - Enabling a resident-focused and resilient Council X

Non-key Executive Decision

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

To approve that –

The Council enters into a covenant directly with new owners in order to bind the new owners to existing obligations and covenants and protect Council's interest.

AUTHORITY UNDER WHICH DECISION IS MADE

**Havering Council's Constitution
Scheme 3.3.5
Specific Powers of the Strategic Director of Place.**

8. Property

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.

The above powers are the subject of a formal sub-delegation from the Strategic Director of Place, to the Director of Housing & Property and subsequently to the Assistant Director of Regeneration & Place Shaping.

STATEMENT OF THE REASONS FOR THE DECISION

Background

Havering Council ("the Council") is the freehold owner of the property being the land on the North West Side of Wingletye Lane, Hornchurch, Essex. The Council agreed to grant a right to the grantee as stipulated in Schedule 1 of the deed of easement dated 11 August 2020(Deed) (Appendix A) for the benefit of the dwellings to be erected on Mardon Maywin Drive, Wingletye Lane, Hornchurch, Essex on the terms set out in Schedule 2 of the Deed.

Pursuant to clause 9 of the Deed, the grantee agreed that upon transfer of the grantee's property that any subsequent owner will be required to enter into a deed of covenant with the Council to observe the stipulation in the Deed. A restriction has been entered on grantee's registered title prohibiting registration at the Land Registry of any dispositions of registered estate without written consent signed by the Council that clause 9 of the Deed has been complied with.

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Plot 1 of Mardon Maywin Drive, (1 Danmar Close, Hornchurch) was sold in 2021. The new owners are required to enter into a deed of covenant with the Council in order to comply with the restriction noted on grantee's title.

OTHER OPTIONS CONSIDERED AND REJECTED

Option: Not to approve the transfer of the grantee's obligations and covenants to the new owners by way of a direct covenant with the new owners.

Rejected: There is no other option because the Council is under a legal obligation to enter into a direct covenant with all new owners of the subject property. Failure to enter into a deed of covenant will prevent the new owners from registering their legal interest at the Land Registry.

PRE-DECISION CONSULTATION

The following have been consulted over the proposed transfers & easements – Legal Services and Property Services.

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

Name: Christopher Pasterfield

Designation: Principal Asset Surveyor

Signature:

Date:

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

Pursuant to clause 9 of the Deed, any subsequent owners of the grantee's land are required to enter into a deed of covenant with the Council to observe and perform the stipulations in the Deed.

The decision to enter into the deed of covenant with the new owners will allow the registered estate of the subject property to be registered.

Section 111 of the Local Government Act 1972 provides councils with the power to do anything whether or not involving the expenditure, borrowing or lending of money or the acquisition of property rights, which is incidental, conducive or calculated to facilitate the exercise of any of their functions.

In addition, the Council may rely on its general power of competence under the Localism Act 2011. Section 1 of the Act provides that the Council has power to do anything that an individual generally may do, subject to the restrictions and limitations which are specified in the Act. The Council may rely on the above powers to enter into the deed of covenant.

FINANCIAL IMPLICATIONS AND RISKS

None as no money changes hands and Legal Services will be reimbursed for their work on the documentation.

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

None.

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 EHIA (Equality and Health Impact Assessment) is usually carried out and on this occasion 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.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

BACKGROUND PAPERS

The deed of easement.

APPENDICES

Appendix A The Deed of Grant of Easement relating to land at Mardon, Maywin, Hornchurch, Essex.

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

Title Assistant Director of Regeneration & Place Shaping

Date: 28.10.2024

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 _____