

## 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

<b>Subject Heading:</b>	<p><b>Subject Property:</b> Upminster Library, Corbets Tey Road, Upminster, RM14 2BB</p> <p><b>Event:</b> Licence Relating To Freehold Covenant</p>
<b>Decision Maker:</b>	Mark Butler - Assistant Director of Regeneration & Place Shaping
<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

**Non-key Executive Decision**

<b>Financial summary:</b>	The financial aspects for the transaction are detailed in the <u>EXEMPT Appendix A</u> to this Report
<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 property sits on land that was transferred from The Church Commissioners for England to the County Council in 1961. A freehold covenant was placed on the land as part of this transfer, it states "Except as provided by sub-clause (ii) of this Clause to use the property hereby conveyed for public purposes only and not to use or occupy the property hereby conveyed or any building hereafter erected thereon for commercial purposes or for the purpose of making a profit". Havering Council is now the owner of the land and Upminster library is located on this land.

The previous letting at the library by the Council required a licence from the Church to be able to let part of the premises for a commercial rent. The terms of the licence stated 10% of the annual rent would be paid to the Church for the licence and would last for the duration of the lease. The Tenant chose not to renew the lease and vacated in July 2022.

A new lease was granted by the Council to Greater Heights Learning Centre Ltd in December 2022 but a new licence was not requested from the Church to allow the commercial letting. A retrospective licence is now required to be completed so the Council's commercial letting is regularised.

#### **Recommendations**

It is recommended that the Council agrees to the licence as there is a freehold covenant on the land. The Estates Surveyor, LBH - Property Services will instruct legal services to agree a licence relating to the freehold covenant with landlords solicitor.

#### **Decisions**

Formal authority is hereby given for the Council to agree to the licence as there is a freehold covenant on the land. The Estates Surveyor, LBH - Property Services will instruct legal services to agree a licence relating to the freehold covenant with landlords solicitor.

### AUTHORITY UNDER WHICH DECISION IS MADE

Havering Council's Constitution Part 3.3 scheme 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.

**Non-key Executive Decision**

**STATEMENT OF THE REASONS FOR THE DECISION**

There is a freehold covenant on the land that explicitly states the land is to be used for public purpose and not for the purpose for making profit. As the Council is letting part of the library for commercial benefit a license is required with the Church to allow the commercial letting.

**OTHER OPTIONS CONSIDERED AND REJECTED**

Option: Not to agree to the licence  
Rejected: The Council would be in breach of the freehold covenant and legal action could be taken against the Council.

**PRE-DECISION CONSULTATION**

None

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

Name: Luke Kubik  
Designation: Estates Surveyor  
Signature:



Date: 7th November 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

### **FINANCIAL IMPLICATIONS AND RISKS**

Library services will cover the Church's legal fees of £1,250 plus VAT for the licence and the annual fee of £1,700 (10% of the annual rent). This will be met from cost centre A23060.

### **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

**Non-key Executive Decision**

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 and on this occasion this isn't 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**

No Environmental and Climate Change implications identified.

**BACKGROUND PAPERS**

None

**APPENDICES**

<b>Appendix A</b>	Licence Relating To Freehold Covenant Summary	Exempt
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**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: 26.11.2024

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