

Notice of NON KEY Executive Decision containing exempt information

This Executive Non-key Decision Report is part exempt, with Exempt information contained in Appendix A; this 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. It is exempt because it refers to commercial and confidential information, which may be shareholder sensitive in nature, and relates to potential future negotiations with private companies. The public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Subject Heading:	Rainham and Beam Park Regeneration LLP: Development Support Services Appointment – change to Scope of Services
Decision Maker:	Neil Stubbings, Strategic Director of Place
Cabinet Member:	Councillor Graham Williamson
ELT Lead:	Paul Walker, Director of Housing and Property
Report Author and contact details:	Harry Scarff, Regeneration Manager (Regeneration/Place) Harry.Scarff@havering.gov.uk
Policy context:	This Executive Decision arises from 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.

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Financial summary:	This Non-key Executive Decision is a record of the actions taken by officers arising from a decision previously taken by Cabinet on July 18 th , 2023 and delegated to officers.
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 - Supporting our residents to stay safe and well X

Place - A great place to live, work and enjoy X

Resources - Enabling a resident-focused and resilient Council 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 arising from 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.

The decision concerns Rainham and Beam Park Regeneration LLP (the LLP).

On 19th July 2023, Cabinet approved the recommendation that entailed the voluntary sale of the Notting Hill Commercial Properties Limited (NHCPL) interest in the LLP to the Council, and to Rainham and Beam Park Regeneration Nominee Company Ltd (the Nominee Co).

Following the decisions made on 19th July 2023 and following consultation, a Non-Key Executive Decision was made 25th September 2024 finalising the terms under which the sale of NHCPL's interest was concluded.

The Nominee Co was established by the Council and has now become the second Member in the LLP alongside the Council.

Arising from this same Executive Decision, the Development Management Agreement (DMA) and the Administrative Services Agreement (ASA), both delivered by PSP related parties were terminated.

In contemplation of the termination of the DMA and ASA, Action 4 of the 25th September 2024 decision also noted that the scope of Development Support Services Agreement (DSSA) would be varied.

The DSSA is a service provided to the LLP by the Council with a scope and defined obligations, in return for which a fee is payable by the LLP to the Council.

The change in DSSA scope will address some of the need for certain services previously performed through the DMA and ASA and will provide the LLP with access to the necessary advice and support consistent with its business planning, project management, administrative, statutory and other requirements.

Changes to the initial scope of services and fees defined in the DSSA have now been proposed and agreed by the LLP and is the subject of this request for approval.

This Non Key Executive Decision therefore requests the approval of the Council, as a Member of the **RAINHAM AND BEAM PARK REGENERATION LLP**, and as the sole shareholder of **RAINHAM AND BEAM PARK REGENERATION NOMINEE CO LTD** to **CONSENT** and **APPROVE**:

1. That the LLP agrees to the variation of: a) the scope of services provided to it through the DSSA arising from the termination of the Development Management

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and the Administrative Services Agreements; and b) the additional fees payable as a result of the change in scope, as set out in this paper and substantially in the form of the draft variation at **Exempt Appendix A**;

2. That the LLP enters into a Deed of Variation with the Council in respect of the increased services and fees payable pursuant to the proposed variation to the DSSA (the “**DSSA Variation**”);
3. That the Strategic Director of Place signs the written members’ resolutions on behalf of the Council authorising the LLP to enter in to the DSSA Variation.
4. That the director of the Nominee Company signs the written members’ resolutions on behalf of the Nominee Co authorising the LLP to enter in to the DSSA Variation.

This Executive Decision further requests the Council to APPROVE:

5. That the Strategic Director of Place finalises and agrees the DSSA Variation on behalf of the Council.

AUTHORITY UNDER WHICH DECISION IS MADE

The authority in the Constitution under which the executive decision or key decision is made is as follows;

3.3 Powers of Members of the Senior Leadership Team

Members of the Senior Leadership Team (SLT) have delegated authority to act as follows within the assigned service service/portfolio of responsibilities, subject to the general provisions and limitations set out in section 3.1 above.

General powers

(a) To take any steps necessary for proper management and administration of allocated portfolios.

Financial Powers:

(a) To incur expenditure within the revenue and capital budgets for their allocated portfolio as approved by the Council, or as otherwise approved, subject to any variation permitted by the Council's contract and financial procedure rules.

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STATEMENT OF THE REASONS FOR THE DECISION

The LLP was until September 2024 a 50/50 Joint Venture between the Council and NHCPL. In September 2024, NHCPL transferred its interest in the LLP to the Council and ceased to be a corporate “member” of the LLP. This was the subject of a Non Key Partially Exempt ED approved on September 25th 2024.

When NHCPL ceased to be a member of the LLP, the DMA and the ASA were also terminated; these contracts were both performed by members of NHCPL’s group of companies.

In contemplating the impact of termination of the DMA and ASA, the LLP and the Council recognised that advice and support would still be required. An analysis of gaps in support created by the termination has informed the revised scope of the DSSA.

The variation in scope does not fully replicate the whole scope of the DMA and the ASA. The LLP recognises that these full scopes of service are not required at this stage. The proposed change in the level of service provided through the DSSA will provide the LLP with access to the necessary advice and support consistent with its current project management, administrative and other requirements.

OTHER OPTIONS CONSIDERED AND REJECTED

Termination of the DSSA was considered as an option but, following advice, it was considered that termination of this services would expose the Members of the LLP to undue risk in fulfilling their duties under the Members Agreement and as required to meet statutory reporting, accounting and other obligations.

Procuring external parties to provide the additional advice to the LLP was also an option that was considered.

On balance it is proposed that current option, to vary the existing agreement between the Council and the LLP, provides the most financially advantageous option for the LLP.

PRE-DECISION CONSULTATION

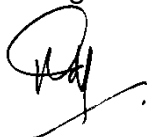
N/A

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

Name: Harry Scarff

Designation: Regeneration Manager



Signature:

Date: April 11, 2025

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The DSSA Variation is considered a Consent Matter under the Member's Agreement ("MA"), with reference to paragraph 3 of Schedule 3 (Consent Matters) of the Member's Agreement which states, inter alia, that entering into, terminating or varying any contract terms or arrangement (whether legally binding or not) with any Member requires the consent of all of the Members.

The Council has taken external legal advice on the matter.

Changes to the DSSA will need to be made in writing to comply with the terms of the agreement, this will be done by way of a deed of variation.

Before the LLP can enter into the variation each Member of the LLP, will require a member resolution agreeing that the LLP can enter into the variations because the variations will fall within paragraph 3 of Schedule 3 of the MA and thus constitute a Consent Matter. This consent is conveyed through the execution of this decision, and the Parties to the MA will also sign a members' resolution document prior to entering into the documents recording their respective consents.

The DSSA Variation is drafted to address these points.

The Council may rely upon the General Power of Competence ("general power") provided for in Section 1 of the Localism Act 2011 to enter in to the DSSA Variation in its capacity as both LLP Member and sole shareholder of the Nominee Co, and, in the case of the DSSA Variation, as the Council itself. The general power is a wide power which allows the Council to do anything that an individual may do (subject to public law principles) and certain exemption, but those do not apply in this case.

FINANCIAL IMPLICATIONS AND RISKS

The revised fees will increase the outgoings of the LLP, and therefore the capital required.

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The fees payable to the Council as the provider of the varied DSSA services will also increase - by exactly the same amount.

Until the DSSA fee was suspended whilst the exiting Member of the LLP agreed terms the Council had been receiving annual fee income of £120,000 net paid annually into the Council's general fund revenue budget.

As a result of the proposed DSSA Variation, the fee would increase to £240,000 paid annually (in monthly increments) to the benefit of the Council's general fund revenue budget.

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

The Rainham and Beam Park Regeneration programme will require continued involvement of officers from the Regeneration Directorate, other Council services and external resources. The Rainham and Beam Park Housing Zone forms part of the Council's overall regeneration programme.

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 and on this occasion this is/isn't required/attached

The Council seeks to ensure equality, inclusion, and dignity for all, in all situations.

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There are no equalities and social inclusion implications and risks associated with this decision

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; Draft Deed of Variation of the Development Support Services 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



Neil Stubbings
Strategic Director of Place

Date: 14th April 2025

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 _____