

## 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 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> The Kiosk, Upminster Park, Upminster RM14 2BE (“the Property”)</p> <p><b>Event:</b> New Lease</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

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<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 is leased to the existing tenant on a 10-year lease that commenced on the 1 November 2014 - the lease is protected by the Landlord & Tenant Act 1954. The lease expired on 31 October 2024 and the tenant has remained in occupation under the same terms. The above property is a small kiosk located within Upminster Park and is used as a hot and cold food and drink concession to cater for the visitors to Upminster Park, the sale of alcohol is prohibited.

Following the serving of a non-opposing section 25 notice, the agreed heads of terms detailed in Appendix A reflect what is believed to be best consideration for the property in accordance with section 123 of the Local Government Act 1972. The terms reflect current council practices and prevailing market conditions.

#### **Recommendations**

It is recommended that the Council agrees that Property Services instructs the Council's legal team to draft a new lease as per the agreed terms in Appendix A.

#### **Decisions**

Formal authority is hereby given to instruct Property Services to instruct the Council's legal team to draft a new lease as per the agreed terms in Appendix A.

### 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.

8.6 To dispose of any property or asset of the Council provided that the value of the property or asset is less than £1,000,000. The delegation is subject to the following requirements:

- a) complying with the Code of Practice on the Disposal of Surplus Property
- b) in cases where the Cabinet has already approved the principle but not the terms of a property disposal without the invitation of competitive bids, the provisionally agreed terms of any disposal exceeding £1,000,000 shall be reported to Cabinet for approval before the transaction is concluded.

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- c) in cases that have not been the subject of competitive bids but are below £1,000,000 in value, the provisionally agreed terms of disposal shall be reported to the Strategic Director of Resources, before the transaction is concluded.
- d) complying with relevant Council policy on property transactions
- e) referring a matter for Member decision where it is proposed to recommend other than the best financial bid.

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

The lease had ended and a valuation report confirms an uplift in rent is achievable. Terms for a new lease have been agreed with the tenant as detailed Exempt Appendix A.

### **OTHER OPTIONS CONSIDERED AND REJECTED**


Option: Not to renew the lease  
Rejected: There is no reason not to renew the lease as the tenant wishes to renew and has agreed terms.

### **PRE-DECISION CONSULTATION**

None

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

Name: Luke Kubik  
Designation: Estates Surveyor  
Signature:



Date: 27 August 2025

## **Part B - Assessment of implications and risks**

### **LEGAL IMPLICATIONS AND RISKS**

The recommendation of this report requires the Council to grant a renewal lease in accordance with the terms stipulated in Appendix A. The lease has a contractual term of 10 years each and is afforded security of tenure.

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.

Section 123 of the Local Government Act 1972 ("LGA 1972") allows principal Councils to dispose of land as they wish for the best consideration that can reasonably be obtained unless with the consent of the Secretary of State or by way of a short-term tenancy. It is noted that the rent was negotiated in keeping with the valuation report carried out by the council's surveyor to ensure that the Council can comply with the duty to obtain best consideration, pursuant s.123 LGA 1972.

The recommendation in this report is in keeping with the aforementioned powers.

### **FINANCIAL IMPLICATIONS AND RISKS**

The new lease will generate additional rental income for the Council during the lease term. VAT is not chargeable on the rent.

The costs associated with drawing up the new lease will be paid for from existing budgets.

### **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.

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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 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**

**Appendix A**      Landlord's Proposals for Lease Renewal Terms - 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 

Name: Mark Butler

Position: Assistant Director of Regeneration & Place Shaping

Date: 24.09.2025

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