

Notice of NON KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendices A, B, C, D, E and F are *not* available for public inspection as they contain or relate to exempt information within the meaning of paragraph 3 of Schedule 12A 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:	Settlement of a Rainham & Beam Park Compulsory Purchase Order No.1 Compensation Claim
Decision Maker:	Paul Walker – Interim Director of Housing & Property.
Cabinet Member:	Councillor Graham Williamson Cabinet Member for Regeneration.
SLT Lead:	Neil Stubbings – Strategic Director of Place.
Report Author and contact details:	Harry Scarff Regeneration Manager (Place) Harry.Scarff@havering.gov.uk
Policy context:	This decision is made in the context of the promotion of the policy to regenerate the area defined by the Rainham and Beam Park Housing Zone. The property in question forms part of a key strategic site identified for residential redevelopment as part of the proposed regeneration of Rainham and Beam Park Housing Zone. Its acquisition was subject to compulsory purchase regulations then in progress, by the Council

Non Key Executive Decision – Part Exempt Report

Financial summary:	<p>This Executive Decision sets out information relating to the funding of the Rule 6 business disturbance and professional fees compensation agreement.</p> <p>Following an executive decision in March 2021, the Council acquired and is in possession of the property. This decision required further agreement on business disturbance compensation and professional fees in accordance with the CPO rules.</p> <p>The Council is currently seeking a new tenant in anticipation of development once the entirety of the strategic site has been assembled either through private treaty or by CPO. The costs, funding and associated implications are set out in the exempt Financial Implications and Risks sections below.</p>
Relevant Overview & Scrutiny Committee:	Place Overview & Scrutiny Sub-Committee.
Is this decision exempt from being called-in?	Yes – it is a decision by a Council officer.

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

<p style="text-align: center;">DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION</p> <p>The Interim Director of Housing and Property is asked to:</p> <ol style="list-style-type: none">1. Note the determination and award of costs made by the Independent Expert in relation to the final settlement of the claim brought under – Rule 6 Section 5 Land Compensation Act 1961 (“the Act”).
--

Non Key Executive Decision – Part Exempt Report

2. After undertaking any necessary further due diligence, facilitate and enter into all necessary legal documentation to bring into effect the proposed financial and other arrangements necessary to agree and make the final payments as set out in paragraph 1 above and in Exempt Appendices A, B, C, D, E and F.

AUTHORITY UNDER WHICH DECISION IS MADE

Part 3 of the Constitution [Responsibility for Functions] Powers of Members of the Senior Leadership Team Section 3.3 (a) – To take any steps necessary for proper management and administration of allocated portfolios.

This report is further to the recommendation made in the Key Decision of February 15th, 2024 concerning the settlement of the claim for disturbance, loss and fees, and therefore in accordance with that Key Decision made under Part 3, section 2.5 (t), of the Constitution.

In addition, the Executive Decision dated 25 March 2021 to approve the purchase of the Property gave authority to:

‘Take all necessary steps to agree any claim for disturbance, loss and fees to the freeholder and tenant, subject to the satisfactory conclusion of the acquisition of the Property pursuant to action 1 above and subject to a further report and decision’.

A further Key Executive Decision dated 28th June 2022 gave authority:

‘...in the event of the open market value being agreed to take all necessary steps to agree any further claim, subject to the satisfactory conclusion of negotiations’.

The Key Executive Decision dated 15th February 2024 gave authority to:

‘...make a partial settlement in relation to the claim, and to take all reasonable steps to agree the remaining claim for disturbance costs under – Rule 6 Section 5 Land Compensation Act 1961 and professional fees incurred by the owner/occupier’.

STATEMENT OF THE REASONS FOR THE DECISION

The Council acquired the freehold interest of the property in 2021 via an agreement that provided for the acquisition of the property at an agreed price plus business compensation. This is defined in the CPO rules as ‘disturbance compensation’ and is

Non Key Executive Decision – Part Exempt Report

payable as if the property had been acquired using compulsory purchase powers. An 'occupier's loss payment' is also required in respect of the business tenancy.

The property was acquired on 30 September 2021 following terms that were settled in the Contract for Sale provided at **Exempt Appendix A**. An advance payment was made based on the Council's valuation figure. Both parties subsequently agreed the valuation of the property and the Key Executive Decision of 28th June 2022 gave authority to conclude negotiations and to settle compensation claims arising from the contract to purchase the Property. This was under Rule 2, Section 5 Land Compensation Act 1961, and under Section 33 of the Land Compensation Act 1973. No further payments are due for the freehold value.

In the Key Executive Decision of 28th June 2022, Authority was also given to take all necessary steps to agree any further claim for 'disturbance compensation' under Rule 6 Section 5 Land Compensation Act 1961, including any professional fees incurred by the owner/occupier.

Consequently, negotiations with the Claimant have been in progress since October 2022. During negotiations, many aspects of the claim were agreed. However, some were not agreed.

The matters that were not agreed included:

- Management time - The time spent by the claimant's Directors in dealing with the acquisition of the property, the relocation of the claimant to the new property, and the claim for disturbance compensation under the contract.
- Valuation fees - Fees for valuation reports commissioned by the Claimant.
- Brochures - The cost of producing replacement publicity materials.
- Statutory interest - whether, on a proper construction of the contract, statutory interest pursuant to s.11 of the Compulsory Purchase Act 1965 is payable from the valuation date until the date of payment of all elements of compensation.

Having considered their options, the Council and the Claimant agreed to refer the disputed matters to an Independent Expert for final determination. The independent expert determination agreement is provided at **Exempt Appendix B**.

Following the provision of submissions made in relation to the disputed matters to the Independent Expert by both parties, the Experts determination was made on September 24th and is provided at **Exempt Appendix C**. The determination is also summarised at **Exempt Appendix D**. Counsels Opinion is provided at Exempt Appendix E.

OTHER OPTIONS CONSIDERED AND REJECTED

To refer the dispute to the Upper Tribunal Lands Chamber (UTLC). In the event of parties going to UTLC, the general rule is that the unsuccessful party will pay the costs of the successful party. As the 'dispute was on technical matters only, and in view of the laborious procedure and risk of additional cost exposure associated with this

Non Key Executive Decision – Part Exempt Report

option, it was considered undesirable to adopt this approach to reaching a determination. - **Rejected**

To act in breach of the sale contract and the Expert Determination Agreement, and not to agree or proceed with the financial settlement set out in the Expert Determination Agreement. This could precipitate a lawsuit and additional cost exposure for the council – **Rejected**

PRE-DECISION CONSULTATION

N/A

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

Name: Harry Scarff

Designation: Commercial Manager (Regeneration)

Signature:



Date: 19th November 2025

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The London Borough of Havering acquired 199 New Road from Analyze (UK) Ltd (the claimant) under a contract (**Exempt Appendix A**) for the acquisition of the freehold, dated 30 September 2021.

The contract provided for the acquisition of the property at a price to be agreed plus disturbance compensation payable as if the property had been acquired using compulsory purchase powers.

The Compensation Code is applied to calculate compensation where land has been acquired pursuant to or under the threat of a CPO. This is made up of rules in various Acts augmented by case law and the Compulsory Purchase guidance.

The freehold value was finally agreed in June 2022 when a further payment was made. No further payments are due for the freehold value.

Non Key Executive Decision – Part Exempt Report

Following the settlement of the Rule 2 claim, made under Section 5 Land Compensation Act 1961, Basic Loss Payment was agreed - under Section 33 of the Land Compensation Act 1973. Occupier's Loss Payment was also settled - under Section 33c Land Compensation Act 1973. Negotiations then continued with a view to settling the final Rule 6 compensation settlement in line with earlier executive decisions.

Under Rule 6 Section 5 Land Compensation Act 1961 Act a claimant is entitled to additional compensation usually referred to as 'disturbance'. Disturbance compensation includes any related costs incurred by the claimant on account of being displaced. This can include relocations costs, loss of business and costs of professional advisers. The Rule 6 compensation settlement is the subject of this report.

A Key Executive Decision dated 15th February 2024 gave authority to make a partial settlement in relation to the Rule 6 claim and to take all reasonable steps to agree the remaining claim for disturbance costs, including professional fees incurred by the owner/occupier.

The determination and award of costs made by the Independent Expert in relation to the final settlement of the claim brought under – Rule 6 Section 5 Land Compensation Act 1961 ("the Act") will conclude all claims arising from the acquisition.

In line with the determination of the Independent Expert it is prudent that, after undertaking any necessary further due diligence, the council makes the final payments as soon as possible in order to avoid additional costs accruing by way of statutory interest. The relevant documents are set out in detail at **Exempt Appendices A, B, C, D, E and F**.

FINANCIAL IMPLICATIONS AND RISKS

The London Borough of Havering acquired 199 New Road from the Seller (the claimant) under a contract (Appendix A) for the acquisition of the freehold, dated 30 September 2021. The contract provided for the acquisition of the property at a price to be agreed plus disturbance compensation payable as if the property had been acquired using compulsory purchase powers.

The freehold value was agreed in June 2022 and all payments relating to the value were made at that time. No further payments are due for the freehold value.

Further analysis is provided at Exempt Appendix F.

Negotiations with the claimant regarding disturbance compensation have been in progress since October 2022. Many aspects of the claim were agreed. However, there were some that were not agreed. These were as follows:

1. Management time - The time spent by the claimant's Directors in dealing with the acquisition of the property, the relocation of the claimant to a new property, and the claim for disturbance compensation under the contract.
2. Valuation fees - Fees for valuation reports.
3. Brochures - The cost of producing replacement publicity materials.

Non Key Executive Decision – Part Exempt Report

4. Statutory interest - whether, on a proper construction of the contract, statutory interest pursuant to s.11 of the Compulsory Purchase Act 1965 is payable from the valuation date until the date of payment of all elements of compensation.

The Council and the claimant agreed to refer the disputed matters to an Independent Expert (the Expert) for final determination. The expert determination agreement is provided at Exempt Appendix B.

The expert determination is dated 22 September 2025. The document is provided at Exempt Appendix C and a summary of the determination is provided at Exempt Appendix D.

During the Expert determination process, the Council and the Claimant have provided evidence to support their respective positions, and each party has also had the opportunity to provide statements rebutting aspects of the other parties submissions to aid the Experts review and determination.

The Determination sets out the experts approach to each head of claim as part of the final determination of the claim. This can be found in Exempt Appendices C and D.

The determination has been reviewed by the Councils advisors, and where matters of law are potentially engaged, by legal Counsel.

The determination requires that statutory interest is payable. Advisors conclude that this should be calculated from the acquisition date of 30 September 2021.

Counsel's view is that, on a strict interpretation of the contract, statutory interest was not payable. However, Counsel has further advised that a court may look at the likely intention of the parties rather than a strict interpretation of the contract, and that the parties did not intend to exclude statutory interest.

The independent expert determination agreement provides at paragraph 6 that a legal challenge to the determination may be mounted on various grounds including 'a manifest error of law or fact'.

The Councils advisors have concluded that there is no merit to be obtained in challenging the determination of the expert as such challenge is unlikely to succeed. Counsels opinion is provided at Exempt Appendix E.

The independent expert determination agreement provides that the parties can apply for an award of costs after the determination has been made. The Councils advisors, having considered the matter, recommend that there would be little merit in making an application for Costs, but to do so only if the claimant applies for costs. In this case, the Council would make the application as a defensive measure.

The Claimant has confirmed that they will not be making an application for Costs and therefore the recommendation is that the Council does not make a claim.

The independent expert determination agreement provides at Paragraph 8 that the final payment be made within four weeks of the award of costs.

Non Key Executive Decision – Part Exempt Report

Previously, compensation payments have been made to the Claimants solicitors to enable a clear audit trail and receipt. It is recommended that this approach is repeated.

It is therefore recommended that:

1. The Council concludes any due diligence and then prepares and enters into any necessary legal documentation to bring into effect the proposed financial and other arrangements necessary to agree and make the final payments as set out in the Experts Determination and as set out in 1 and in Exempt Appendices A, B, C, D, E and F.
2. To use budgets approved and phased in 2020/21, 21/22, 22/23, 23/24 and 24/25. The reduced cost of this transaction will contribute towards budgets available for future acquisitions and matters will be managed accordingly.

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

The Rainham and Beam Park project will require continued involvement of officers from the Regeneration Department and 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 economic and health determinants.

In respect of the proposed decision to acquire the subject property there are no adverse implications or risks associated with the Councils statutory duty.

HEALTH AND WELLBEING IMPLICATIONS AND RISKS

This decision in itself presents no health and wellbeing implications. Ensuring that this matter is settled will contribute to the on-going realisation of the Council's regeneration vision for the Rainham and Beam Park Housing Zone, the health and wellbeing implications of which have been considered and described in previous executive decision reports.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

This report does not give rise to adverse environmental or climate change implications or risks.

The Regeneration plans for the strategic site, of which this property is a part, will enable the council to build or promote new affordable homes and homeless provision that will be targeted at high levels of energy performance for the entire development as well as for individual units.

BACKGROUND PAPERS

None

Non Key Executive Decision – Part Exempt Report

APPENDICES

Appendix A	Contract for Sale	Exempt
Appendix B	Independent Expert Agreement	Exempt
Appendix C	Independent Expert Determination	Exempt
Appendix D	Independent Expert Determination (Summary)	Exempt
Appendix E	Counsels Advice	Exempt
Appendix F	Financial Implications and Risks	Exempt

Non Key Executive Decision – Part Exempt Report

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



Paul Walker
Interim Director of Housing & Property

Date: 25th November 2025

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 _____