

Notice of NON KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendix A are 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 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:	Subject Property: Ingrebourne Neighbourhood Nursery, Ashbourne Road, Harold Hill, Romford, RM3 7YT Event: Settlement Agreement
Decision Maker:	Mark Butler - Assistant Director of Regeneration & Place Shaping
Cabinet Member:	Councillor Paul McGeary – Cabinet Member for Housing and Property
SLT Lead:	Neil Stubbings - Strategic Director of Place
Report Author and contact details:	London Borough of Havering (LBH) Luke Kubik Estates Surveyor Property Services Town Hall Main Road Romford RM1 3BD Tel: 01708 434 176

Non-key Executive Decision

	E: luke.kubik@havering.gov.uk
Policy context:	Asset Management Plan
Financial summary:	The financial aspects for the transaction are detailed in the <u>EXEMPT Appendix A</u> to this Report
Relevant Overview & Scrutiny Sub Committee:	Place
Is this decision exempt from being called-in?	The decision will be exempt from call in as it is a Non key Decision

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

To agree that Property Services instruct the Council’s legal team to draw up a settlement agreement as per the details in Appendix A.

AUTHORITY UNDER WHICH DECISION IS MADE

Havering Council’s Constitution Part 3.3 scheme 3.3.5 (2nd 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.

STATEMENT OF THE REASONS FOR THE DECISION

The Ingrebourne Neighbourhood Nursery (“the Property”) is located in the Ingrebourne Children’s Centre building. The tenant is currently occupying on a tenancy at will and there have been negotiations for a new lease. Negotiations have now concluded and agreement has been reached to backdate the new lease to the start of the tenancy at will dated 1 July 2024. However, as the tenant name of the new lease is different from the tenancy at will it is not possible to have two different entities paying rent for the same period. This has arisen due to the rent being increased under the new lease and is therefore a backdated rent increase.

Legal have advised that a settlement agreement is required to record the payment of the backdated rent. The details of the settlement agreement are included in appendix A.

OTHER OPTIONS CONSIDERED AND REJECTED

Option: Not to implement a settlement agreement
Rejected: There is no good reason not to implement a settlement agreement as both parties have agreed terms

PRE-DECISION CONSULTATION

None

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

Name: Luke Kubik

Designation: Estates Surveyor

Signature:

A handwritten signature in black ink, appearing to be 'LK', is positioned below the 'Signature:' label. The signature is stylized and somewhat cursive.

Date: 23 March 2026

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

It is understood that the arrears relate to a intervening period between the named tenant in their own name and the tenant in the name of a different legal entity the arrears cannot be enforced against the legal entity to whom the new lease will be entered. This is because, whilst the occupant remains the same, they were not the same legal entity as the proposed named tenant so the new legal entity cannot be held accountable for the arrears and there would be no actionable basis for claim against the new entity. The claim would be against the occupant in their personal name given the agreement to pay the increased rent rested with the.

The benefit to entering into a settlement agreement would be that it minimises the legal action to enforcement of a settlement agreement rather than requiring the Court to determine if there had been a liability accrued in the first instance. This also means that the costs recoverable are minimised and allows the Council to be able to focus on recovery action, should there be a breach of the settlement agreement. As such a settlement agreement setting out the sums to be paid represents the most prudent basis for being able to recover the sums perceived to be due and payable. As it allows the Council to have protection from the financial losses that may have accrued during the intervening period with which the sums had accrued and enables the Council and the party to avoid any ambiguity on what if anything would have been owed and minimises the risk of a complex inclusion of terms in the lease related to the arrears. The recovery basis would be a claim against the breach of the settlement agreement should it be necessary.

The settlement agreement also allows the Council to be able to conclude the position on the arrears independently of the new lease being entered.

The further benefit of the settlement agreement being entered and especially against the individual is that there is a greater chance of recovery of the sums against the individual than the company. This is when you consider the risks associated with liquidated and losing the entitlement to claim as oppose to the individual there is a personal liability which gives a protection in terms of recovery.

FINANCIAL IMPLICATIONS AND RISKS

The settlement agreement will bring in additional revenue for Property Services and ensure the backdated element of the new lease agreement is paid on completion, which will minimise the risk of default on repayments.

The costs of implementing this settlement agreement will be paid for from existing budgets.

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

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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 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 a Settlement Agreement - Exempt

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: 23/03/2026

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 _____