

COMMISSIONERS' INDIVIDUAL DECISION MAKING

Thursday, 9 April 2015


Commissioners' Decision Log No. 6

1. **GRANTING OF WAYLEAVE TO UK POWER SOLUTIONS FOR 100000 PREMIUM (Pages 1 - 10)**

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Tel: 020 7364 4651, E-mail: matthew.mannion@towerhamlets.gov.uk

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Agenda Item 1

Individual Commissioner Decision Proforma Decision Log No: ____	 TOWER HAMLETS
Report of: Corporate Director, Development & Renewal	Classification: Unrestricted
Granting of wayleave to UK Power Solutions for £100,000 premium	

Is this a Key Decision?	No
Decision Notice Publication Date:	N/A
General Exception or Urgency Notice published?	N/A
Restrictions:	None

EXECUTIVE SUMMARY

The Council is proposing to grant a wayleave to UK Power Solutions (UKPS) permitting the installation of electricity cables underneath council-owned land. UKPS is paying the council the sum of £100,000 for the wayleave.

The site being referred to is a riverside walk way managed by Parks and Open Spaces providing a pedestrian link (along the A13) from Leamouth roundabout to Canning Town Station. It should be noted that there are currently plans to re-landscape the walkway as part of the funding secured from the London Legacy Development Corporation which would improve the walkway. These works have been delayed in order to accommodate the above request and save the inconvenience of having the walkway dug up twice.

Strutt and Parker Surveyors has been appointed to act for the Council in negotiating the wayleave and recommend that the premium is accepted, being considerably more than the market norm (supporting documentation from Strutt and Parker forms Appendix 1).

Time is of the essence in this matter. UKPS has requested that a decision on whether the premium offer will be accepted is made by no later than 16th March in order to allow UKPS to proceed with an alternative route with TFL if the Council rejects the offer.

The Commissioners are asked to consider the offer of £100,000 and authorise officers to instruct Legal Services to prepare and proceed with the wayleave agreement.

This report sets out the background to this proposal.

DECISION

The Commissioners are recommended to authorise officers to:

- a) proceed with the wayleave on receipt of a premium of £100,000; and
- b) to instruct legal services to proceed with the transaction.

APPROVALS

1. (If applicable) Corporate Director proposing the decision or his/her deputy

I approve the attached report and proposed decision above for submission to the Commissioners.

Name AND SUTCLIFFE Signed ASutcliffe

Date 18/03/15

2. Commissioner


I agree the decision proposed in paragraph above for the reasons set out in paragraph 1.1 in the attached report.

Name VJKNIGHT Signed 

Date 18/3/15

Name Max Caldwell Signed 

Date 18/3/15

Commissioner Decision Report 18 March 2015	
Report of: Corporate Director, Development & Renewal	Classification: Unrestricted
Granting of wayleave to UK Power Solutions for £100,000 premium	

Lead Member	N/A
Originating Officer(s)	Service Head, Corporate Property & Capital Delivery
Wards affected	Spitalfields and Banglatown, Whitechapel, Stepney Green and Bow East
Key Decision?	No
Community Plan Theme	Great Place to Live

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The Commissioners are asked to consider the offer of £100,000 and authorise officers to instruct Legal Services to prepare and proceed with the wayleave agreement.

This report sets out the background to this proposal.

Recommendations

The Commissioners are recommended to authorise officers to:

- a) proceed with the wayleave on receipt of a premium of £100,000; and
- b) to instruct legal services to proceed with the transaction.

1. REASONS FOR THE DECISIONS

- 1.1 The payment of £100,000 represents above market prices for the granting of the wayleave and represents a good financial deal for the Council.

2. ALTERNATIVE OPTIONS

- 2.1 The alternative option is not to proceed with the wayleave whereupon UKPs will proceed with an alternative route and the Council will not benefit from the £100,000 payment.

3. DETAILS OF REPORT

- 3.1 In September 2014 UKPS requested the council to grant a wayleave permitting the installation of electricity cables within Silvocea Way and Orchard Wharf in order to provide an electricity link up to the Ballymore City Island development.
- 3.2 UKPS has a limited number of optional routes in which to lay the cable. The two preferred routes are shown on the attached aerial photograph (Appendix 2). The route highlighted in blue is the preferred, shorter route which travels along Silvocea Way and Orchard Wharf. The route highlighted in red is UKPS second choice of route which travels across Transport for London (TFL) Land. UKPS is currently in talks with TFL on the details of the red route. It is understood that TFL is not seeking any form of premium in return for granting a wayleave.
- 3.3 In December 2014 Asset Management instructed Strutt and Parker Surveyors to provide advice on the level of premium that can be charged to UKPS and to negotiate on the Council's behalf. Strutt and Parker has extensive experience in the granting of wayleaves and in negotiating wayleave agreements. Strutt and Parker's fee is 5% of the premium agreed if the matter proceeds to completion.
- 3.4 Following two months of negotiations, on 11th February 2015, Strutt and Parker reported a final offer from UKPS of £100,000. Strutt and Parker recommend this offer is accepted and is in excess of what would normally be expected from a wayleave of this nature.

- 3.5 Asset Management recommends that this offer of £100,000 is accepted and that Legal Services is instructed to complete the wayleave in line with the Heads of Terms which forms Appendix 3.
- 3.6 This matter was put to the council's Asset Management Working Group (AMWG) on 12th March. The AMWG have authorised the matter to proceed subject to Commissioner approval.
- 3.7 UKPS has stated that it wishes to start works in March 2015. Should the offer not be accepted by 16th March UKPS has stated that it will proceed with the alternative route marked red on Appendix 2 with TFL.
- 3.8 Authority can be granted via the council's scheme of delegation paragraph 3.7 for which Service Head approval is sufficient (see Appendix 4).

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 As this wayleave will be agreed under officer delegated authority, the comments of the Chief Finance Officer have not been sought at this stage. The relevant extract from the Council's constitution is attached at Appendix 4.

5. LEGAL COMMENTS

- 5.1 As this wayleave will be agreed under officer delegated authority, legal comments have not been sought at this stage. The relevant extract from the Council's constitution is attached at Appendix 4.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1. There are no immediate One Tower Hamlets considerations arising from this report.

7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 7.1 There are no immediate 'sustainable action for a greener environment' implications arising from this report.

8. RISK MANAGEMENT IMPLICATIONS

- 8.1 Strutt and Parker states that £100,000 represents a good financial deal for the Council and is a higher figure than what was initially expected. If this offer is not accepted by the 16th March 2015 it is highly likely that UKPS will proceed with the alternative TFL route and the Council will lose the opportunity of proceeding with this transaction.

8.2 In the event that at some time in the future the Council requires the cabling to be moved the cost of 'lifting and shifting' the cabling to an alternative route will need to be met by the Council. The likelihood of this happening however is small. The site is a dedicated river walkway and there is already existing cabling under the walkway.

9. CRIME AND DISORDER REDUCTION IMPLICATIONS

9.1 There are no immediate crime and disorder implications arising from this report.

10. EFFICIENCY STATEMENT

10.1 Not required.

11. SAFEGUARDING IMPLICATIONS

11.1 There are no immediate safeguarding implications arising from this report.

Linked Reports, Appendices and Background Documents

Linked Report

- NONE

Appendices

- Appendix 1. Supporting document from Strutt and Parker
- Appendix 2. Aerial view of the two preferred routes for UKPs
- Appendix 3 Proposed Heads of Terms.

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- NONE

Officer contact details for documents:

- Kevin Pulsford, Principal Asset Manager ext 4609

Chelmsford

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Our ref: DH.js.T507.14

27 February 2015

Dear Kevin

**London Borough of Tower Hamlets
Leamouth North Project**

Following the request for comparables and further information on electricity easements I include below some background information and comparables. The provisional agreement for the easement payment is £100,000 for the 510m. This equates to £196/meter.

Comparables

County	Type of Utility	Length of Easement	Rate Agreed
Cambridgeshire	Electricity	3100m	£4/m
Norfolk	Electricity	320m	£4.38/m
Essex	Water	434m	£23/m
Norfolk	Sewage	1,512m	£7.41/m

The above figures are an assessment of standard per meter rates paid by easements. It is clear that a figure considerably higher than the market norm has been achieved.

In circumstances where a private development would have the ability to use statutory powers or have an access route via Highways land there is no one off premiums paid to the third-party land owner. Depending on the strength of the Grantors position having regard to an alternative route available to the development, this will dictate the level of premium paid.

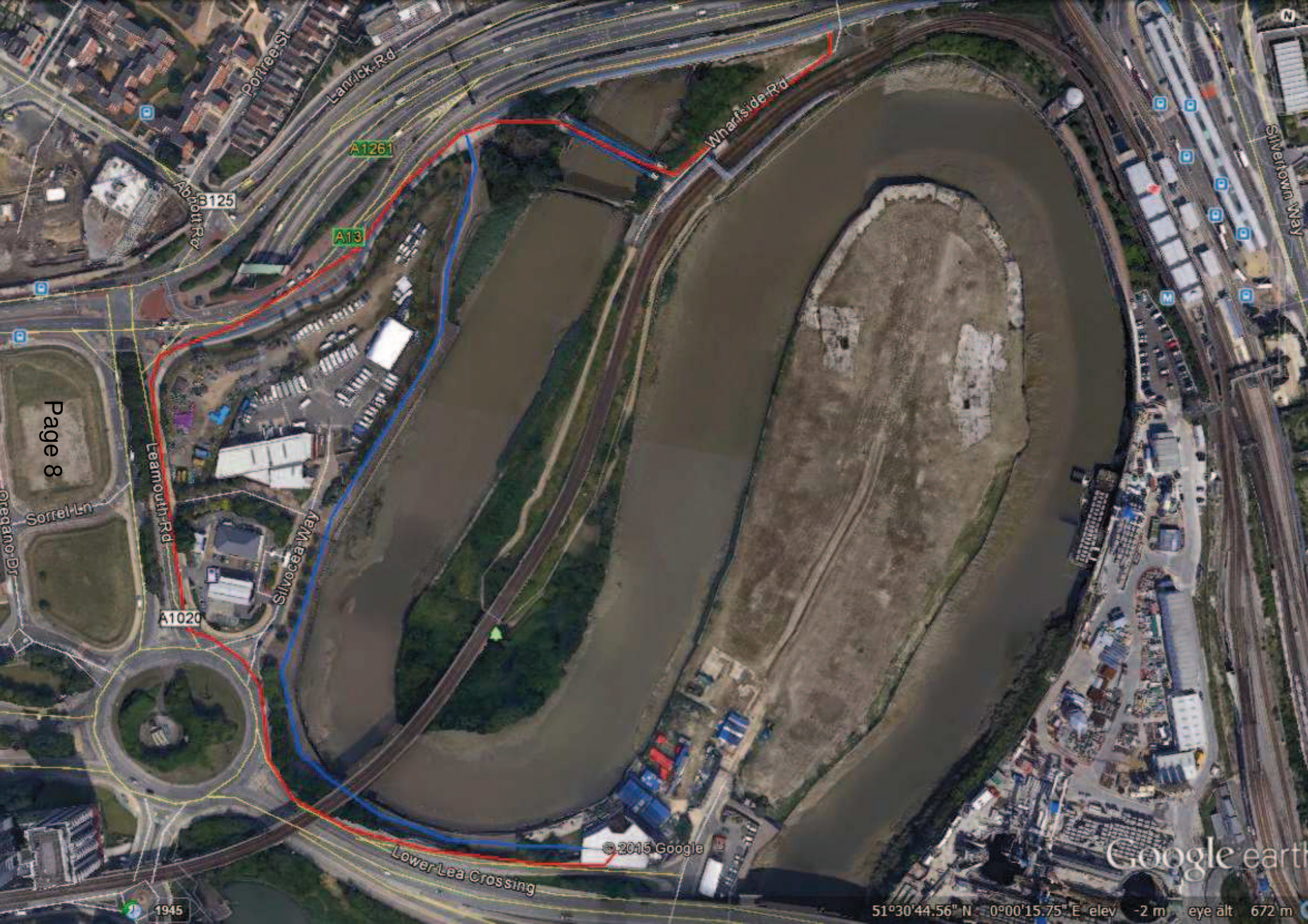
The reason for this is that UKPN's alternative route on to the City Island Site on the Leamouth Peninsular was a longer route and along the A1261. If this alternative route was used there would be no easement payment to TFL. However UKPN would pay a lane rent and also obviously incur great construction costs as the distance is longer by 160m. In addition we anticipate that the project would be delayed by UKPS seeking consent from TFL to access and work on the A1261.

Any questions please do hesitate to contact me.

Yours sincerely

**Duncan Howie MRICS FAAV
Associate**





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A125

A1261

A13

A1020

Lower Lea Crossing

Leamouth Rd

Silvocea Way

Wharfside Rd

Lanrick Rd

Portree St

Abbott Rd

Surrey Ln

Oregon Dr

Smeaton Way

1945

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Google earth

51°30'44.56" N 0°00'15.75" E elev -2 m eye alt 672 m

APPENDIX 2

DRAFT HEADS OF TERMS

1.	Property:	Land adjacent to Silvocea Way, Leamouth North Project
2.	Grantor:	London Borough of Tower Hamlets Mulberry Place 5 Clove Crescent London E14 2BG
3.	Grantor's Agent:	Duncan Howie Strutt & Parker LLP Coval Hall Chelmsford Essex CM1 2QF Tel: 01245 – 254644
4.	Grantor's Solicitor:	tbc
5.	Grantee:	U K Power Solutions River View House Bonds Mill Estate Stonehouse Gloucestershire GL10 3RF
6.	Grantee's Solicitors:	tbc
7.	Consideration Fee:	£100,000
8.	Proposed Works:	To install 11kV underground cable on the land.
9.	Terms:	Parties will enter into a standard wayleave agreement prior to the easement being completed.
		UKPS to be responsible for undertaking and bearing the full costs of the works.
		UKPS to be responsible for restoring the site and making good any damage following the works and following any future maintenance of them. All damages to the London Borough of Tower Hamlets property and wider estate will be compensated if damaged.
		UKPS to maintain all the equipment
		The grantor is entitled to lift and shift if planning permission is obtained. The grantor is to offer alternative cable route on his land or wider estate. The grantor will bear the cost for lift and shift.
10.	Costs:	All parties to pay their own costs.

Decision		Corporate Director	Service Head	Section Head	Other (name post)
3.6	To be responsible for conducting negotiations on the Council's behalf in relation to the sale or acquisition of any property, whether freehold, leasehold or by licence.	Development & Renewal	Asset Strategy, Capital Delivery, Property Services	Corporate Property Services	
3.7	To grant wayleaves to statutory undertakers and other third parties over and under land owned by the Council	Development & Renewal	Asset Strategy, Capital Delivery, Property Services	Corporate Property Services	
3.8	To grant easements in, over or through Council land subject to consultation with other departments as appropriate	Development & Renewal	Asset Strategy, Capital Delivery, Property Services	Corporate Property Services	
3.9	To authorise the acquisition of land and premises in accordance with Council Policy and the Asset Management Plan procedures subject to the purchase price not exceeding [£250,000?]	Development & Renewal	Asset Strategy, Capital Delivery, Property Services		
3.10	To grant licences for temporary/short term works on Council owned land where appropriate	Development & Renewal	Asset Strategy, Capital Delivery, Property Services	Corporate Property Services	
3.11	To approve after consultation with the Corporate Director Resources appropriations between relevant function areas and statutory holding powers, except where public notice of the proposed appropriation is required and objections are received	Development & Renewal	Asset Strategy, Capital Delivery, Property Services		