

**MINUTES OF THE CABINET MEMBER SIGNING
THURSDAY, 2 MAY 2013**

Present: Councillor Claire Kober, Leader of the Council.

In Attendance: Xanthe Barker, Principal Committee Coordinator, Dinesh Kotecha, Head of Corporate Property, Patrick Uzice, Principal Project Lawyer

With the agreement of the Chair of the Overview and Scrutiny Committee, this decision was taken under Special Urgency (as set out under Part 4, Section D (17.3) of the Constitution) and as such the requirement to publish a written notice with respect to the matter, five clear working days ahead of the decision being taken, was waived.

MINUTE NO.	SUBJECT/DECISION	ACTION BY
HSP06.	<p>HORNSEY CENTRAL DEPOT</p> <p>The Leader considered a report, which sought approval of the final financial terms of the contract for the disposal of the site and a variation of the contract, based on those financial terms, between the Council and Sainsbury’s Supermarkets Limited (‘SSL’), dated 16 September 2010.</p> <p>It was noted that following their detailed assessment the developer had brought forward three main cost issues, which were attributed to matters not allowed for in their initial development appraisal and had not therefore informed the offer made to the Council in February 2013. These matters were as follows:</p> <ul style="list-style-type: none"> ➤ Cost of indemnity insurance to protect against defects in the Council’s title and potential compensation payable to anyone claiming third party rights ➤ Additional Stamp Duty Land Tax arising from the election to waive the VAT exemption on the land transaction ➤ Potential Rights of Light compensation <p>RESOLVED:</p> <p>That the final financial terms now reported (detailed in the exempt part of the report) be approved and that a variation of the contract, based on those financial terms between the Council and Sainsbury’s Supermarkets Limited, dated 16 September 2010, be agreed.</p> <p>Alternative Options Considered</p> <p><u>Reject the amendments sought by the developer</u></p> <p>This is not recommended as there is a real likelihood that the deal will fall away leaving the council and SSL to re market the whole site and seek another developer without any certainty that the terms can be improved.</p> <p><u>Resist the amendments sought by the developer and continue to negotiate</u></p> <p>This is not recommended as it will cause further delay and increase the risk of</p>	

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planning not being achieved prior to the new Community Infrastructure Levy (CIL) arrangements being implemented resulting in significant increase in development costs and therefore a reduced land value.

Agree the changes with St. James but seek to share the financial impact with SSL

This is neither realistic nor reasonable given that the land agreement between SSL and the council provides that the whole of the sale proceeds comes to the council and therefore SSL does not share in the upside or downside.

Reasons for Decision

Having completed respective due diligence checks all three parties to the land transactions have reached agreement on the detailed terms and confirmed readiness to enter into legal binding contracts (subject to planning). The decision will enable the scheme to proceed to the next stages requiring the developer to submit planning application to enable the contracts becoming unconditional and subsequently see start on site.