

Report of Chief Officer Property and Contracts

Report to Chief Officer Property and Contracts

Date: 16/12/2013

Subject: Request to approve the surrender of the ground lease on 101 Lincoln Green Road and the re-grant of a new lease.

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Burmantofts and Richmond Hill	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The freehold of 101 Lincoln Green Road, is owned by the Council and vested with Environment and Housing (Housing General Fund). It is managed as part of the Investment Portfolio by Asset Management.
2. The building on the site (highlighted on the attached plan) is in place by way of an 85 year ground lease, originally granted in 1958 to the Trustees of the working men's club (WMC) for the sole purpose of the construction of the existing club premises. The Council does not own the building and it has been closed for some time.
3. The Receivers for the WMC Trustees recently applied for the Council's consent to assign the existing ground lease to Heron Foods Limited (Heron) who operate a regional network of discount food stores. Consent was granted and Heron Foods have now exchanged contracts and are the new leaseholders.
4. Heron have stated their intention to demolish the building after acquiring the lease because of its condition. They are proposing to construct a 4000 sq.ft discount supermarket in place of the old club.
5. The current lease restricts use of the site for club premises only, therefore Heron are seeking to acquire either the Council's freehold interest in the site or be granted a new long term ground lease. They are also seeking to acquire an area of land to the north east of the existing lease area in order to provide adequate parking and delivery spaces

Recommendations

6. It is recommended that the Chief Officer of Property and Contracts:

- Grants approval for the surrender of the existing ground lease to Heron Foods Ltd for 101 Lincoln Green Road and simultaneous re-grant of a new long term ground lease of the existing lease area and also additional land to the north east of the site (shown as the hatched area on plan 2) that would permit development of a store and retail use thereafter, on terms to be agreed by the Director of City Development. The recommendation is subject to Planning and Highways approvals.

Purpose of this report

- 1.1 To inform the Chief Officer of Property and Contracts of the background and main issues of this proposal.

2 Background information

- 2.2 The Freehold of 101 Lincoln Green Road, is owned by the Council and vested with Environment and Housing. The building on the site is in place by way of an 85 year ground lease, originally granted in 1958 to the Trustees of the working men's club for the sole purpose of the construction of the existing club premises. The area (highlighted on the attached plan) is the full extent of the ground lease. The Council does not own the building and it has been closed for some time.
- 2.3 The WMC Trustees went into receivership in 2013 and the receivers were Heron Foods Ltd, who operate a regional network of discount food stores and have stores in various locations across Leeds, some of which were previous pub sites. The lease was recently assigned to Heron foods as consent cannot be reasonably withheld as per the terms of the lease
- 2.4 Heron have stated their intention to demolish the existing building because of its poor state of repair and high levels of asbestos. They are proposing to construct a 4000 sq ft discount supermarket in place of the old club. Heron have sought the Council's consent for the demolition of the building however it does not appear to be a requirement stipulated in the existing lease agreement.
- 2.5 The current lease restricts use of the site for club premises only, therefore Heron are seeking either to acquire the Council's Freehold interest in the site (Heron's preferred option) or be granted a new long term ground lease which would permit the development of a store and retail use thereafter. Heron are also seeking to acquire an area of land to the north east of the site (shown as the hatched area on plan 2) in order to improve parking and delivery provision.
- 2.6 Internal consultation regarding the development of a store on the site was undertaken on 31/10/13 where the following comments were made:

- **Highways:** The on-site parking and servicing facilities appear to be extremely inadequate for the proposals. For a supermarket development of this size a greater number of car parking spaces should be provided. There are concerns that servicing vehicles have insufficient space on-site to make their deliveries and may have to park on the highway which would cause problems with the busy signalised junction with Beckett Street. It is recommended that the developer enters discussions with the councils Transport Development Services team at an early stage to discuss their proposals.
- **Planning:** Support subject to planning application where detailed design and highways will be agreed. National and local planning guidance support retail development in this location.

2.7 Asset Management have had some initial discussions with Heron regarding the above comments and as a result Heron have now expressed interest in acquiring an area of land to the north of the current lease area in order to improve parking and delivery provision. The proposal would be for the supermarket to be located in the north east corner of the extended site which would then provide more adequate parking and delivery provision. The land in question is also vested with Environment and Housing. Further consultation regarding this proposal was undertaken on 31/01/14 where the following comments were made:

- **Highways;** Transport Development Services have expressed concern during pre-application discussions about a food store on this site, due to servicing problems. Concern was also expressed about the limited car parking provisions within the scheme. In conclusion, it is considered that the inclusion of the cross-hatched area would not satisfactorily address the highway difficulties
- **Planning;** Planning policy would support the retail development in principle however the details on the latest layout submitted would require more detailed discussions.

2.7 Further discussions would need to take place at the Planning application stage to iron out any Planning and Highways issues. The purpose of this report is to gain an agreement in principle regarding the long term lease on the site which will be subject to Planning and Highways approvals.

2.8 The Freehold was declared surplus in 2010 for the purpose of selling to the Trustees of the WMC. However the disposal was never concluded. The Investment and Asset team would now recommend a long term lease as opposed to disposal of the Freehold as a long term lease allows the Council to retain an element of control over the site.

3 **Main issues**

- 3.9 An option appraisal of the site, which considered the following options, was undertaken:

Dispose of the Freehold Interest to the new Leaseholders (Heron Ltd)

Due to the close proximity of the Lincoln Green parade of shops managed by CAMs, a retail development in this location may clash with certain shops on the Lincoln Green parade if not managed effectively. By disposing of the Freehold the Council would lose control over the site and would not be able to impose any restrictions on items to be sold which a leasehold agreement would provide.

The Council acquire the lease and consider alternative uses for the site as per interest from other Council Departments

Following internal consultation, Regeneration expressed potential interest in the site on behalf of Children Services due to a chronic shortage of early years provision in the area. However acquiring the lease would be very costly and time consuming. There is a risk that the building could fall into an even worse state of repair as it has already started to attract anti-social behaviour and has endured metal theft. As it stands the building is in a poor state of repair and contains high levels of asbestos and there is very limited car parking facilities. Demolition and re-development is the most appropriate course of action in these circumstances.

Grant a new long term lease to Heron Foods Ltd with restrictions on use

The grant of a new long term ground lease (likely to be in excess of 99 years) of the existing area that would permit development of the store and retail use thereafter would be the preferred option. This could allow the Council to have greater control over the use of the site and apply restrictions in the lease on the sale of alcohol, tobacco, newspapers and periodicals. It is not guaranteed that Heron will agree to such restrictions and negotiations between Asset Management within City Development and Heron will need to take place regarding the terms and conditions of the lease.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Local Ward Members and Area Management have been consulted on the proposal outlined in this report and no adverse comments were received.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.2 An equality, diversity cohesion and integration screening exercise has been carried out. This has affirmed that equality, diversity, cohesion and integration considerations have been effectively considered in relation to this proposal and that a full impact assessment was not required.

4.3 Council policies and City Priorities

4.3.3 There are no adverse implications for Council policy or governance; however, it is necessary to ensure that best value is obtained via the negotiations and that consideration is given to third parties affected by the proposals outlined in this report.

4.4 Resources and value for money

4.4.4 The proposal will have a positive financial effect on Council business by bringing in an annual income for the long term ground lease.

4.5 Legal Implications, Access to Information and Call In

4.5.5 There are no adverse legal implications. The terms of the new ground lease will be negotiated and approved by the Director of City Development in line with the Delegated Functions of the Council. The report is not eligible for call in.

4.6 Risk Management

4.6.6 There is a risk that Heron will not willingly accept restrictions within the new lease on the sale of specified items. However through careful negotiation the terms and conditions of the lease will be controlled by City Development.

5 Conclusions

5.7 Following internal consultation and an option appraisal of the site the preferred option is to recommend the surrender of the existing ground lease and the granting of a new long term lease to Heron Foods Ltd. The terms and conditions of the lease are to be negotiated and approved by the Director of City Development.

6 Recommendations

6.1 The Chief Officer of Property and Contracts is requested to:

- Grant Grants approval for the surrender of the existing ground lease to Heron Foods Ltd for 101 Lincoln Green Road and simultaneous re-grant of a new long term ground lease of the existing lease area and also additional land to the north east of the site (shown as the hatched area on plan 2) that would permit development of a store and retail use thereafter, on terms to be agreed by the Director of City Development. The recommendation is subject to Planning and Highways approvals.

7 Background documents¹

7.2 Plan 1 identifying the existing lease area

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

7.3 Plan 2 identifying the area outside the current lease which Heron have requested to include in their proposal.