

**Report of :** Head of Property Services

**Report to :** Chief Asset Management and Regeneration Officer

**Date:** 28 July 2014

**Subject:** Land and premises at 101 Lincoln Green Road Leeds – Former North Leeds Working Mens Club

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Burmantofts and Richmond Hill		
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?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:	10.4(3)	
Appendix number:	1	

### Summary of main issues

1. Lincoln Green Working Mens Club closed in early 2013. The site is subject to a ground lease originally granted for the purpose of the construction and operation of the former working men's club building which remains on the site. Following closure the ground lease was sold to a discount supermarket operator.
2. The supermarket operator is proposing to demolish the existing building and construct a purpose built supermarket incorporating additional Council owned land..
3. It is proposed that the existing ground lease shall be surrendered and a new building lease granted, incorporating the additional land, on the terms provisionally agreed and which would permit the construction and operation of the supermarket thereafter.

### Recommendations

4. It is recommended that :
  - 1) The terms provisionally agreed for the surrender of the existing ground lease and the grant of a new building lease incorporating additional land be approved.
  - 2) The early demolition of the building be supported.

## **1 Purpose of this report**

- 1.1 The purpose of this report is to advise as to the current position and seek approval to the terms provisionally agreed for the surrender of the existing ground lease and the grant of a new building lease.

## **2 Background information**

- 2.1 The area of the existing ground lease is shown as A on the plan and extends to approximately 0.22 acres. The existing building is the original club premises purpose built under the ground lease in circa 1960 and which is now in a poor condition and essentially redundant. The terms of the lease are detailed in the confidential appendix. The site is vested in Environments and Housing.
- 2.2 The North Leeds Working Mens Club closed in early 2013. The former tenant was then placed into administration by receivers appointed by the holder of a charge over the ground lease, due to non-payment of a loan.. The receivers subsequently took possession of the building and marketed the ground lease for sale by way of assignment. The lease was assigned to Heron Foods Limited in November 2013, on the basis of the existing lease terms, following the granting of the Council's consent as landlord which could not have been unreasonably withheld.
- 2.3 Heron Foods Limited ( Heron ) is an independent retailer which operates a chain of 235 discount food stores, principally across the north of England and the Midlands. Heron have three existing stores in Leeds. These being in Crossgates, Bramley and Armley respectively. It is Heron's company policy not to sell alcohol or tobacco related products. Their principal business is the sale of a variable range of frozen products and general groceries, reflecting the discount supermarket model.

## **3 Main issues**

- 3.1 Following the assignment of the lease, Heron approached the Council advising of their desire to demolish the existing building and thereafter construct a 4000 square foot purpose built supermarket which would be operated directly by Heron. It is understood that in addition to the substantial investment required to construct and fit-out the store, there would be up to 10 jobs created in an area of the city with one of the lowest levels of economic activity.
- 3.2 Heron are of the opinion that the existing building on the site is not fit for purpose due to its poor condition. Heron have commissioned an asbestos survey which has revealed asbestos to be present. The property is suffering from anti-social behaviour and incidences of rough sleeping around the outside of the building. The site is open and is at a prominent location, with Council housing in close proximity. Given its location, there is a very real risk of rapid deterioration in its condition.
- 3.3 Heron requested that the Council accept the surrender of the existing ground lease, with its restricted use, and thereafter either sell Heron the freehold interest or, grant a new long term ground lease. Following Heron's initial consultation with the Council's planning and highways officers, Heron have subsequently requested that additional Council land be included in order to be able to accommodate the proposed store and to provide adequate provision for car parking and servicing of the store. The additional land is shown as B on the plan ( approximately 0.08 acres) and which is principally a grassed area outside of the adopted highway and vested with Environments and Housing. It is intended that the store will be located in the north-east corner of the enlarged site.

- 3.4 It should be noted that the Aldi discount supermarket chain have submitted a planning application for a new store on the site of the former Renault car dealership at the opposite end of Lincoln Green Road at the junction of Skinner Lane and Regent Street. Heron are aware of this and it is understood that they do not consider it to be an issue in terms of the viability of their proposal.
- 3.5 The Council's Planning officer has indicated that the proposal is acceptable in principle, subject to a planning application, due the sites very close proximity to the existing Lincoln Green neighbourhood shopping centre. Heron have undertaken pre-application discussions but have not yet submitted a planning application.
- 3.6 Highways officers originally expressed concern in response to Heron's original scheme proposal. This was in respect of inadequate car parking and store servicing provision. In addition, concern was expressed as to the potential impact in terms of the increase in vehicle movements on what is an already a busy road junction. Heron are proposing to utilise the existing vehicular access with suitable modifications as necessary.
- 3.7 In response to the highways officer's concerns, Heron made adjustments to their original proposal which resulted in the request for the additional land referred to above. It is understood that, subject to a planning application, the highway officer is comfortable with the revised scheme in terms of the provision of adequate car parking and servicing. However, the issue of the potential impact of increased vehicular movements on the road junction and what could be accommodated has not been resolved. The concern centres around the potential impact if a standard convenience store was to be operated at a later date, of the like operated by the large supermarket chains, and in particular the impact of vehicular movements for discretionary purchases of alcohol and tobacco. Heron have advised that 80% of their customers arrive on foot.
- 3.8 At the time of Heron's discussions with planning and highways officers, the formal support of the Council as landowner had not been secured. Heron were of the opinion that they could not afford to invest in further consultation costs in relation to the outstanding highway issue until they had the formal support of the Council as landowner to the principle of the overall redevelopment. Heron had acquired the lease at risk, given the restriction on the use in the existing lease.
- 3.9 It should be noted that one of the Council's tenants at the nearby Lincoln Green shopping centre has raised concern as to the potential impact of the proposed new store on his trading potential. The tenant operates a branded convenience store selling alcohol and tobacco.
- 3.10 As detailed above, it is Heron's company policy not to sell alcohol or tobacco products. It is their intention to continue with this policy at the proposed store. It is considered that the non-sale of alcohol and tobacco should have a positive impact in relation to highway officer's concerns over potential increased vehicle movements at the junction. It is further considered that this would also minimise the impact on the Council owned convenience store, combined with Heron's focus on frozen and general groceries. The Council owned store is not a discount operator.
- 3.11 The issue of the non-sale of alcohol and tobacco has been specifically incorporated in Asset Management's negotiations with Heron for a new lease agreement in order to assist in addressing the existing highway concerns. This is reflected in the terms provisionally agreed and detailed in the attached confidential appendix.

- 3.12 Beckett Street has been identified as a future potential route for the New Generation Transport trolleybus scheme ( NGT ). Officers with responsibility for the route of NGT have confirmed that whilst Beckett Street is a future potential route, it is proposed the line would run on the opposite side of Beckett Street to the subject property. Therefore, it is confirmed that inclusion of the additional land at B would not impact on any future NGT extension.
- 3.13 In terms of the Council's support as landowner/ landlord, officers from Environment and Housing have been involved with the proposal from an early stage, reflecting the vesting of the land. Ward members were also consulted at an early stage and further member consultation has been undertaken. Please see 4.1 below for details. It was resolved by officers that, despite the outstanding highway issue being unresolved, officers should press on in terms of the Council's position as landowner/landlord in order to achieve a decision from Environments and Housing to the principle and thereby avoid the potential loss of the opportunity to regenerate this site.
- 3.14 On 2 April 2014, the Interim Chief Officer of Property and Contracts, in consultation with the Executive Board member for Neighbourhoods , Planning and Support services, granted approval to a report which incorporated an options appraisal and a recommendation that the Council accept the surrender of the existing ground lease to Heron Foods Ltd and simultaneously re-grant a new long term lease of the combined area of A and B, that would permit development of a store and its use thereafter, on terms to be agreed by the Director of City Development and subject to planning permission.
- 3.15 Heron were advised of the decision referred to in 3.13 and negotiations have subsequently been undertaken and terms have been provisionally agreed and which are detailed in the confidential appendix. At this stage, Heron have not yet submitted a planning application.
- 3.16 In view of the progress in relation to provisional agreement of terms and the deteriorating condition of the building, with the associated anti-social behaviour, Heron have decided to undertake the demolition of the building at the earliest opportunity. It is their intention to undertake the work upon receipt of confirmation of formal approval of the provisionally agreed terms.

## **4 Options Appraisal**

### **4.1.1 Option 1 - Do nothing and continue to receive the rental income**

This is not recommended as this site requires urgent regeneration due to the condition of the building, its prominent location and the considered view that it will never re-open as a club. The existing ground rent is nominal.

### **4.1.2 Option 2 - The Council to acquire the existing lease with a view to demolition and either (a) sell for redevelopment for affordable housing or (b) include in the Council's house building programme.**

This is not recommended as the anticipated cost to the Council would be prohibitive, in terms of acquiring the lease and demolition, in relation to what might be accommodated on this small site. There is an existing concentration of social housing in the immediate vicinity.

### **4.1.3 Option 3 - Accept the surrender of the existing lease and thereafter grant a new building lease, to incorporate the existing lease area and the proposed**

## **additional land, for the purpose of the construction of a supermarket and its operation thereafter.**

This is recommended as it represents an opportunity to regenerate a redundant inner-city site, via private investment, to provide a sustainable alternative use with the added benefit of job creation in an area of low economic activity. There would be no cost to the Council and a premium payment would be generated for the grant of the new lease. The lease would also allow the Council to retain control over the form of supermarket operated.

### **4.2 Corporate Considerations**

#### **4.2.1 Consultation and Engagement**

4.2.2 Ward members were originally consulted by way of a letter from Asset Management dated 6 November 2013 and which was prepared in conjunction with officers from Environments and Housing. One member advised that they would support any shopping development in the area that gives people an option for cheaper healthier food and that they fully support the plans for the site to be developed. A second member, via the first member, raised the issue of the proposed Aldi development referred to earlier in this report. The third ward member raised concern as to the potential impact on the road junction. The position on this latter issue has been detailed above.

4.2.3 Ward members were advised by email on 23 January 2014 as to Heron's request for the additional land referred to in 3.3 and 3.7 above. No objections were received to the proposal.

4.2.4 Ward members were then invited to a meeting on 11 March 2014 with representatives from Heron, including their project manager and planning consultant, the Council's planning officer and the author of this report. The first two ward members referred to above attended and confirmed their support for the scheme at the meeting. The third member was unable to attend.

4.2.5 Environments & Housing further consulted ward members in terms of the report prepared and referred to in 3.13 above. No objections were received in response to that particular consultation.

4.2.6 The Deputy Leader of Leeds City Council and Executive Board Member for Neighbourhoods, Planning and Support Services was consulted in connection with the Interim Chief Officer Property and Contract's consideration of the report referred to in 3.14.

4.2.7 A further update was provided to Ward members via email on 1 July 2014 as to progress in respect of provisional agreement of lease terms and the proposed early demolition of the building. The two members who attended the meeting referred to in 4.2.4 reconfirmed their support via email for the proposal. No reply has been received from the third ward member.

### **4.3 Equality and Diversity / Cohesion and Integration**

4.3.1 There are not considered to be any equality and diversity / cohesion and integration issues.

### **4.4 Council Policies and City Priorities**

4.4.1 It is considered that this proposal represents a contribution to the Council's Best Council Plan objective of promoting sustainable and inclusive economic growth.

#### **4.5 Resources and Value for Money**

4.5.1 The proposed course of action would result in the loss of a minimal annual rent in return for which a premium payment would be generated, on the grant of a new lease, at a time of severe budgetary pressures for the Council.

4.5.2 The demolition of the building and construction of a new supermarket would remove any potential for the Council having to intervene in respect of the existing building should its deterioration continue in the event of Heron reversing their decision to demolish early and deciding to sell on their lease.

#### **4.6 Legal Implications, Access to Information and Call In**

4.6.1 Under Part 3 Section 3E Paragraph 2(a) of the Council's Constitution (Officer Delegation Scheme (Executive Functions)) the Director of City Development has authority to discharge any function of Executive Board in relation to the management of land (including valuation, acquisition, appropriation, disposal and any other dealings with land or any interest in land) and Asset Management.

4.6.2 The Chief Asset Management and Regeneration Officer has authority to take the decisions requested in this report under Executive functions 1 and 10 (specific to the Director of City Development) of the Director of City Development's sub delegation scheme.

4.6.3 The proposal constitutes a significant operational decision and is therefore not subject to call in.

4.6.4 The Head of Land and Property confirms that in his opinion the terms offered to the Council represent the best consideration that can reasonably be obtained under Section 123 of the Local Government Act 1972 ( or under the Housing Act 1985)

4.6.5 The information contained in the Appendix to this report relates to the financial or business affairs of a particular person, and of the Council. This information is not publicly available from the statutory registers of information kept in relation to certain companies and charities. It is considered that since this information was obtained through one to one negotiations for the purchase of the land/property referred to then it is not in the public interest to disclose this information at this point in time. Also the release of such information would or would be likely to prejudice the Council's commercial interests in relation to and undermine its attempts to acquire by agreement similar properties in the locality in that owners of other similar properties would be aware about the nature and level of consideration which may prove acceptable to the Council. It is considered that whilst there may be a public interest in disclosure, much of this information will be available from the Land Registry following completion of the purchase and consequently the public interest in maintaining the exemption outweighs the public interest in disclosing this information at this point in time. It is therefore considered that this element of the report should be treated as exempt under rule 10.4.(3) of the Access to Information Procedure Rules.

#### **4.7 Risk Management**

4.7.1 It is considered that if the recommended course of action is not pursued then there is a high risk of continued deterioration of a redundant building in a prominent

location. In addition, an opportunity to regenerate the site with private investment and which would provide the economic benefits detailed in the report would be lost.

- 4.7.2 There is the risk that planning permission may not be granted given that the impact on the highway junction and what alterations may be necessary have not been determined at this stage.

## **5 Conclusions**

- 5.1 The proposal should be approved as it is considered to be the most effective approach to dealing with the issues facing this site.

## **6 Recommendations**

- 6.1 It is recommended that:

- 1) The terms provisionally agreed for the surrender of the existing ground lease and the grant of a new building lease incorporating additional land be approved.
- 2) The proposed early demolition be supported.

## **7 Background documents<sup>1</sup>**

- 7.1 None

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<sup>1</sup> 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.