



This Report is part exempt and Appendix A is not available for public inspection as it contains or relates to exempt information within the meaning of paragraph 7 of Schedule 12A to the Local Government Act 1972. It is exempt because it refers to financial and business affairs of the Tenant, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

CABINET

Subject Heading:

Land having frontage to North Street (aka Sainsbury's Billet Lane Car Park), Hornchurch, RM11 1TS – Lease Renewal

Cabinet Member:

Cllr Paul McGeary – Cabinet Member for Housing & Property

SLT Lead:

Neil Stubbings - Strategic Director of Place

Report Author and contact details:

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Policy context:

Asset Management Plan

Financial summary:

The financial aspects for the transaction are detailed in the Exempt Appendix A to this Report

Is this a Key Decision?

Yes - Expenditure or saving (including anticipated income) of £500,000 or more

When should this matter be reviewed?

End of the lease term – 24th March 2028

Reviewing OSC:

Places OSSC

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.

SUMMARY

This report seeks Cabinet approval to agree and complete a new lease with Sainsbury's for the land having frontage to North Street (aka Sainsbury's Billet Lane Car Park), Hornchurch, RM11 1TS.

The previous lease expired on 14th November 2021 and terms have been agreed with the tenant for a new lease on the terms set out in Exempt Appendix A.

RECOMMENDATIONS

Cabinet are asked:

1. To approve the grant of a new lease to Sainsburys Supermarkets Ltd, for the subject land on terms as set out in Exempt Appendix A.
2. To authorise the Assistant Director of Legal Services to undertake all relevant measures to implement the proposed grant.

REPORT DETAIL

Part of the existing Sainsburys car park, having frontage to North Street and Billet Lane Hornchurch, is in the freehold ownership of Havering Council – the council has leased the subject land to Sainsbury's Supermarkets Ltd (the tenant) for a number of years. A site plan is attached to this report as Appendix B, identifying the location and extent of the Council's land.

The latest lease was for a term of five years and expired on 14th November 2021. The lease was excluded from the provisions of s24-28 of the Landlord and Tenant Act 1954, meaning that the tenant does not have an automatic right of renewal.

The lease includes conditions relating to parking charges and VAT is charged on the rent. The Council is under a duty to demonstrate that it has complied with s123 of LGA 1972 in achieving 'best value' on any renewal of the current lease.

Terms have been provisionally agreed with Sainsburys for a new 5-year lease on terms set out within the exempt Appendix A to this paper. Transactional matters relating to the Council's commercial portfolio are generally managed under delegated authority but the value of the rental income over the period of the lease in this instance exceeds the limit reserved under the Scheme of Delegation.

Consideration has been given to the option of disposing of the Council's freehold interest to generate a capital receipt, but has not been recommended due to the impact upon revenue to the Council's General Fund.

REASONS AND OPTIONS

Reasons for the decision:

Heads of Terms have been agreed with the tenant and both parties wish to complete a new lease in accordance with the terms set out in Exempt Appendix A.

Other options considered:

Option: Not to agree a new lease

Rejected: There is no reason not to agree a new lease as both parties wish to complete a new lease with Heads of Terms being agreed. The inclusion of the Council-owned land affords more operational capacity for Sainsburys and the rental income serves to alleviate pressure on the Council's General Fund.

Option: To dispose of the site

Rejected: This has been rejected in order to retain a secure rental income and rental growth to the Council's General Fund.

IMPLICATIONS AND RISKS

Financial implications and risks:

By agreeing and completing a new five year lease the rental income is secured for the benefit of the Council's General Fund. VAT will be chargeable on the rent.

This is not an additional income stream for the Council because this contributes to income targets already budgeted within Property Services.

Costs associated with getting the lease in place can be contained within existing resources/budgets.

Legal implications and risks:

The Council has agreed to grant a new lease of the car park site as detailed in this report, based on the existing lease terms except for the rent. The lease will be contracted out of the s24-28 Landlord and Tenant Act 1954 (Part II) and therefore, the Tenant will not have the right to remain in the property after the expiry of the lease nor a right to renew the lease.

The Council will rely on s123 of the Local Government Act (LGA 1972) to grant the lease to the Tenant. Pursuant to s123 LGA 1972, the Council can dispose of land in any manner they wish, including granting a lease or assigning any unexpired term on a lease, and the granting of easements. The only constraint is that a disposal must be for the best consideration reasonably obtainable (except in the case of short tenancies), unless the Secretary of State consents to the disposal (section 123, LGA 1972).

The lease is for a term of five years and therefore, the duty to achieve best consideration is not engaged since the disposal would be classed as a short term tenancy (a term of seven years or less). Legal Services note however that the rent has been assessed by a local valuer as the 'best rent achievable' for the site.

The Council also has a wide "general power of competence" under Part 1, Chapter 1 of the Localism Act 2011, which gives it the same power to act as that of an individual subject to other statutory provisions limiting or restricting its use.

Human Resources implications and risks:

There are no HR implications from completing a new lease with the Tenant.

Equalities 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 when a proposed or planned activity is likely to affect staff, service users, or other residents.

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.

Health and Wellbeing implications and Risks:

None

Environmental and Climate Change Implications and Risks:

None

BACKGROUND PAPERS

None