

BARNSELY METROPOLITAN BOROUGH COUNCIL

REPORT OF: Executive Director Growth and Sustainability

TITLE: Proposed New Lease of the former Co-op Store, King Street, Hoyland

| | |
|---------------------------------|---|
| REPORT TO: | CABINET |
| Date of Meeting | 27 July 2022 |
| Cabinet Member Portfolio | Place (Regeneration & Culture) |
| Key Decision | Yes |
| Public or Private | Part Exempt Open report with exempt appendix - by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 |

Purpose of report

To seek approval for the proposed new sub-letting of the former Co-op store, King Street, Hoyland.

Council Plan priority

- Growing Barnsley – People have a welcoming, safe and enjoyable town centre and principal towns as destinations for work, shopping, leisure and culture.

Recommendations

That Cabinet:-

1. Approve the terms reported in respect of the proposed new sub-lease of the former Co-op store, King Street, Hoyland; and
2. Grant a sub-lease for a term of 10 years at a peppercorn rent.

1. INTRODUCTION

- 1.1. The council owns the long leasehold interest of the ground floor of the former Co-op store on King Street, Hoyland by virtue of a 99 year lease from 1 October 1982, which has an unexpired term of c.59 years.
- 1.2. We've been negotiating for a new sub-letting of the property to deliver a range of community benefits for Hoyland town centre, the wider community and the people that live there.

2. PROPOSAL

- 2.1. The proposal is to grant a 10-year sub-lease of the Co-op store on King Street, Hoyland.
- 2.2. Following negotiations, heads of terms have been provisionally agreed for a proposed 10-year, full repairing and insuring sub-lease at a peppercorn rent to a charitable organisation. The proposed peppercorn rent is to ensure that we maximise the wider community and local economic well-being benefits.
- 2.3. As the proposed sub-lease is for a term in excess of 7 years, the proposal represents a disposal for less than the best that can reasonably be obtained, which is addressed in the legal implications section below.
- 2.4. The estimated market rent of the property is £50,000 per annum. Our recommendation is to grant a sub-lease at less than market value. This is based on the difficulty experienced in letting the property currently and the fact that the Council is liable for empty property business rates at a cost of £37,632 plus running costs of circa £10,000.
- 2.5. Under the terms of the existing long leasehold interest, we're restricted from being able to sub-lease the property for below market rent, which means we're required to obtain the landlords consent to proceed on this basis.
- 2.6. The landlord has confirmed that in principle, consent would be granted subject to the payment of a one-off payment of £5,000 together with payment of the landlord's costs for dealing with the consent.
- 2.7. The grant of a 10-year lease will allow the tenant to set up in the premises. It is estimated that the development proposals will cost the tenant between £275k to £400k and will create 8-10 permanent jobs as well as a number of volunteer and mentoring roles. The tenant will also be responsible for paying the ongoing maintenance and insurance costs and the business rates.
- 2.8. The proposal to award the lease at a peppercorn rent promotes external investment in the site which will have significant benefits to Hoyland town centre, the local community and the people that live in the area.

3.0 IMPLICATIONS OF THE DECISION

3.1 Financial and Risk

- 3.1.1 Consultations have taken place with representatives of the Service Director – Finance (S151 Officer).
- 3.1.2 The property has been vacant for over a year and although the estimated market rent of the property is £50,000 per annum, in the collective context of the size, location and state of the retail market nationally, it's highly unlikely there will be retailer demand for premises in the foreseeable future.
- 3.1.3 While the property remains vacant, we're responsible for the empty business rates liability of £37,632 per annum, annual running costs of circa £10,000 together with the usual liabilities associated an empty building. This will be mitigated by the recommendations in this report.
- 3.1.4 There is £5,000 plus the landlord's legal costs payable to the landlord to obtain consent to proceed with the proposed sub-letting at less than market rent. This is in accordance with the terms of our existing long leasehold interest and will be funded from existing resources.
- 3.1.5 In accordance with the Community Asset Transfer Policy, (Cab.30.1.2013/6.3 refers), any land or property leased out by the council should be at market rent, unless otherwise specifically agreed by Cabinet. Also, in the case of offering land or property for rent or lease at a lower market value, the anticipated socio-economic benefits are taken into consideration.
- 3.1.6 There are no undue VAT implications arising as a result of this report.
- 3.1.7 For accounting purposes, the proposed lease will be classified as an operating lease.
- 3.1.8 There are no other direct financial implications associated with this proposal.

3.2 Legal

Our Legal Services will act for the council in the grant of a suitable modern lease (liaising with the Assets Team throughout) and will deal with the issue of consent to subletting at under market rental which is mentioned in the report above.

With the proposed lease term being ten years, the grant of the lease is defined as a "disposal" under Local Government Act 1972 (LGA 1972) (disposal includes all leases of over seven years). Section 123 of LGA 1972 provides that local authorities must not dispose of land at undervalue without the consent of the Secretary of State. A lease at peppercorn rental may be considered a disposal at undervalue (albeit there is low demand for stores in the area as referred to in the report so it may be possible to argue that a peppercorn rental is not less than can reasonably be obtained). The Secretary of State has given a general consent to disposals at undervalue (see Circular 06/03: Local Government Act 1972 general disposal consent

(England) 2003 - *disposal of land for less than the best consideration that can reasonably be obtained*). The terms of the General Consent mean that specific consent is not required for the disposal of any interest in land which the authority considers will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area. The proposed tenant will secure economic and social well-being in Hoyland, thus, the conditions of section 123 LGA 1972 are met. As the proposed lease is longer than seven years, it will be compulsorily registrable at HM Land Registry. This requirement will be dealt with solicitors for the tenant.

3.3 Equality

An Equality Impact Assessment Pre-screening has been completed which has determined that a full EIA is not required.

3.4 Sustainability

Decision-making wheel completed:



3.5 Employee

There are no employee implications arising from this report.

4. CONSULTATION

An online community consultation in early 2022 received 244 responses. The consultation was available through Smart Survey from 20th January 2022 until the 13th February 2022. The link to the consultation was promoted through the Area Team's social media networks, a local community group's social media page, and through Barnsley Council's social media networks.

Almost half of all respondents ranked renovation and recycling of existing buildings as the most important element to Hoyland's economic growth.

Briefings have been held with local Ward Members and Cabinet Spokesperson (Regeneration and Culture) and further consultation with local businesses took place in June, all support bringing this premise into use for wider town centre benefit.

5. ALTERNATIVE OPTIONS CONSIDERED

5.1. An open market sub-letting of the property

The leasehold of the property has been on the market for over 12 months since the Co-op left the site with very limited interest. In the absence of an alternative use, this recommendation mitigates our liability associated with the long-term ownership of a substantial empty building while providing benefits to the local community and the people who live in that area.

5.2 Disposal of the council's leasehold interest

As per 5.1 there is no apparent evidence of further interest in taking this leasehold

6. REASONS FOR RECOMMENDATIONS

6.1 The recommended approach will help to deliver benefits to Hoyland Town Centre, the wider community and the people who live there.

It will also mitigate the liability associated with the long-term ownership of a empty building.

7. GLOSSARY

Not applicable.

8. LIST OF APPENDICES

Appendix A: Tenant Proposal (EXEMPT)

9. BACKGROUND PAPERS

Working papers regarding this matter are held on files within the Assets Team and contain exempt information.

If you would like to inspect background papers for this report, please email governance@barnsley.gov.uk so that appropriate arrangements can be made

10. REPORT SIGN OFF

| | |
|--|--|
| Financial consultation & sign off | Steve Loach, Head of Corporate Finance 06/07/2022 |
| Legal consultation & sign off | Jason Field Head of Legal Services 04/07/2022 Jason Field |

Report Author: Kathy McArdle

Post: Service Director Regeneration and Culture

Date: 6 July 2022