

18 November 2014

Asset & Enterprise Committee

Report Title: 6, 8 & 8a Harewood Road, Pilgrims Hatch, Brentwood – Rent Review

Report of: John R Parling

Wards Affected: Pilgrims Hatch

This report is: Public

1. Executive Summary

- 1.1 This property is let and subject to an outstanding rent review as at 10 April 2012. Provisional agreement has been reached to settle the outstanding rent review and approval is sought from the Committee to conclude and record the settlement.

2. Recommendation (s)

- 2.1 Members are asked approve the settlement of the outstanding rent review.**

3. Introduction and Background

- 3.1 The property is situated in a terrace of three small shop units comprising the subject property, an Indian takeaway and a vacant unit. The subject property has a gross internal area of 2,557 sf (237.57m²) with ancillary accommodation.
- 3.2 The property was originally let to Saxon Convenience Stores Limited, now the CO-OP, on the basis of 20 year full repairing and insuring lease from 10 April 1997 with rent reviews every 5 years. The current passing rent is £13,750pa, agreed at the last rent review 10 April 2007.

- 3.3 An external rent review surveyor, Bidwells, was appointed in January 2014 by the Council to commence negotiation with the tenant to agree the outstanding rent review. Negotiations have been protracted and the process of appointing an independent surveyor to determine the review has been instigated.
- 3.4 As part of the negotiation process the tenant was served with a Calderbank offer by the external rent review surveyor. A Calderbank offer is an offer before action to assist the independent surveyor in determining his decision regarding the awarding of costs against the parties.
- 3.5 The tenant has responded with a counter proposal to settle and the external rent review surveyor has recommended settlement at this level.
- 3.6 The recommended settlement represents a significant increase on the current passing rent. The increased rent will be payable from the rent review date.
- 3.7 Details of the financial negotiations are included as a confidential appendix to this report.

4. Issue, Options and Analysis of Options

- 4.1 If the recommendation is not approved it is likely that the matter will have to be determined by an independent expert appointed by the President of the Royal Institution of Chartered Surveyors. This will result in increased costs and delay and also uncertainty as to the reviewed rent. The independent expert will seek supporting reports from both parties but is under no obligation to accept any evidence.
- 4.2 The Council's external rent review surveyor has recommended acceptance of the tenant's offer.
- 4.3 The external rent review surveyor has confirmed that the provisionally agreed rent offers best value to the Council to comply with s123 of the Local Government Act 1972.

5. Reasons for Recommendation

- 5.1 To conclude an outstanding rent review.

6. **Consultation**

6.1 None at this stage

7. **References to Corporate Plan**

7.1 The key criteria for the disposal of the freehold of the freehold interest in this site are linked directly to the Corporate Plan 2013 –16, specifically:

- a) A Prosperous Borough
- b) Set planning policy that supports discerning economic growth and sustainable development
- c) Promote a mixed economic base across the Borough, maximising opportunities in the town centres for retail and balanced night time economy

8. **Implications**

8.1 **Financial Implications**

Name & Title: Jo-Anne Ireland, Acting Chief Executive (s151 Officer)
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The asset is within the HRA commercial portfolio and the increase in rental and receipt of any back rent will be included within the HRA revenue budget.

8.2 **Legal Implications**

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The Council's disposal powers are contained in section 123 of the Local Government Act 1972, and section 1 of the Localism Act 2011 also provides local authorities with a general power of competence. Under section 123 of the Local Government Act 1972 the Council has the power to dispose of land in any manner that they wish. The main constraint is that the disposal must be for the best consideration reasonably obtainable unless there is ministerial consent or the transfer is to further local well being.

8.3 **Other Implications** (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

None

9 Background Papers (include their location and identify whether any are exempt or protected by copyright)

None

10 Appendices
Confidential – Financial negotiations.

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