

Part A

Report to: Cabinet

Date of meeting: Monday, 5 February 2024

Report author: Associate Director of Property and Asset Management

Title: Long Lease Disposal of Ashington's Car Park, Lady's Close

1.0 Summary

- 1.1 The site (0.11 acres) comprises an unsurfaced car park situated on the southern side of the junction where Vicarage Road meets Exchange Road. It lies immediately to the north of the Sikh Community Centre (formerly Watford County Court House).
- 1.2 The site provides for up to 16 car parking spaces and was acquired by the council in 1996. The land was acquired under Section 32 of the Road Traffic Regulations Act 1984, which relates to the provision of off-street parking.
- 1.3 For over 20 years, the site has been leased out at a peppercorn rent on a series of short leases to the Trustees of the Gurdwara, but they have now secured the necessary funding in order to secure a long lease (250 years) and pay a premium that has been validated by external valuers as meeting our statutory duty to secure best consideration.
- 1.4 Whilst ordinarily the level of premium agreed is within the delegated authority limit of the Associate Director of Property & Asset Management, because the release of the site is for an alternative purpose (private parking), a Cabinet approval is required.

2.0 Risks

2.1

Nature of risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate or transfer)	Risk Rating (combination of severity and likelihood)
The Trustees are unable to raise the funds	A long lease purchase can not be completed.	Evidence has been sought and provided that the funds are available for the purchase	Treat	4
The long lease interest is not granted before the existing lease expires	A new short term lease would need to be granted to allow	Terms have been agreed and solicitors instructed to initiate the drafting of the long lease documentation, subject to Cabinet approval	Treat	3

	continued occupation			
The condition of the car park worsens	The heritage impact on the adjacent Grade 11 building	There will be maintenance and repairing obligations imposed on the tenant which would not be possible under a freehold transfer	Treat	4
The tenant seeks an alternative use for the car park	The council has not secured best consideration as a result of such change of use	There will be appropriate user clauses within the lease restricting the use of the site to car parking purposes.	Treat	4

3.0 Recommendations

That Cabinet:

- 3.1 Confirms that the land is no longer required for the purposes for which it was acquired and is surplus to requirements.
- 3.2 Approves the disposal by way of the grant of a 250 year lease to the Trustees of Sri Guru Singh Sabha Watford on the terms outlined in the report.
- 3.3 Notes that the premium payable by the Trustees is in accordance with best consideration, as validated through an independent valuation.

Further information:

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Report approved by: Tom Dobrashian; Executive Director of Place

4.0 Detailed proposal

- 4.1 The site provides 16 car parking spaces and was acquired by the Council in 1996. The land was acquired under Section 32 of the Road Traffic Regulations Act 1984, which relates to the provision of off street parking. Since 1997 the Council has supported the Sikh Community by leasing the land at a peppercorn on a succession of short term leases.
- 4.2 The Trustees of the Gurdwara originally approached the Council in 2019 to acquire the freehold of the car park. Options were considered by officers and reported to the Community Facilities Review Board in October 2020 and an agreed approach to dispose at value by way of a long lease with a restriction on use imposed was agreed.

- 4.3 The rationale for agreeing a 250 year lease as opposed to a freehold disposal is to ensure some form of control by the council over the continued use of the site as a car park (as opposed to a residential use for example) and to impose appropriate maintenance and repair obligations on the tenant
- 4.4 To this end, a valuation was undertaken by an external party to establish the consideration that was appropriate given the special purchaser status of the Trustees. On this basis, terms were negotiated and agreed with a Trustee in the Autumn of 2021 on the basis of a 250 year lease with a premium being at a level supported by valuation, in the expectation that the transaction could be concluded in advance of the existing lease expiry date of 22 March 2022.
- 4.5 Due to Covid restrictions and the ability of the Trustees to fund raise, they advised officers in early 2022 that they had been unable to raise the funds necessary for such a transaction and therefore requested a lease extension. A new short term lease was granted at a peppercorn rent for a period of two years to 22 March 2024 to allow the Trustees additional time to raise the funds.
- 4.6 At the same time, it was agreed that a new valuation would be required in the Summer of 2023 to reflect changing market circumstances and allow time for completion of fund raising and eventual take up of the 250 year ground lease prior to end March 2024.
- 4.7 A revised valuation was provided and terms agreed at a revised premium reflective of the midpoint within the valuation range. A copy of the agreed Heads of Terms are attached as Appendix 1 (Part B)
- 4.8 As this is a disposal of land on a long term lease and it will not longer be available to the council for the purpose for which it was acquired, namely off street parking. Cabinet must agree that the land is surplus to requirements in order to enter into the lease.
- 5.0 **Implications**
- 5.1 **Financial**
- 5.1.1 The Chief Finance Officer comments that, under proper accounting practice, the long lease will be accounted for as a finance lease. The lease premium, set out in the part B appendix, will be recognised as a capital receipt.
- 5.2 **Legal Issues (Monitoring Officer)**
- 5.2.1 The Group Head of Democracy and Governance comments that as stated in the report it is necessary to declare this land surplus to requirements in order for it to be disposed of to a third party on a long term lease. Because of the length of the lease the council is under a duty to obtain best consideration which is determined to be financial consideration. Officers have sought an independent valuer's opinion to help secure best consideration in the lease terms as described in the part B appendix.

5.3 Equalities, Human Rights and Data Protection

5.3.1 Having had regard to the council's obligations under s149, it is considered that there are no impacts.

5.3.2 Having had regard to the council's obligations under the General Data Protection Regulation (GDPR) 2018, it is considered that officers are not required to undertake a Data Processing Impact Assessment (DPIA) for this report.

5.4 Staffing

5.4.1 There are no staffing implications.

5.5 Accommodation

5.5.1 There are no accommodation implications.

5.6 Community Safety/Crime and Disorder

5.6.1 By securing appropriate long term off street parking, this will reduce or avoid the need for parking on surrounding streets by the congregation of the Gudwara.

5.7 Sustainability

5.7.1 The terms of the lease will impose obligations on repair and maintenance of the site, ensuring a sustainable solution.

Appendices

- Part B Appendix 1 – Agreed Heads of Terms

Background papers

No papers were used in the preparation of this report.