

OFFICER DECISION RECORD

For staff restructures, please also complete an RA1 form to update the HR Portal. This is attached at Annex 2.

Decision Ref. No: AP326

RE17 0003

Box 1

DIRECTORATE: Regeneration and Environment

DATE: 23 December 2016

Contact Name: Katie Fry

Tel. No.: 52815

Subject Matter: Surrender of existing lease and re-grant of new lease of Bays 28 & 29 Chappell Drive, Doncaster

Box 2

DECISION TAKEN:

Simultaneous surrender of the existing lease of Bays 28 & 29 Chappell Drive to Wedd (Flowers) Ltd dated 3rd January 1998 and grant of a new lease to Wedd Wholesale Florists Limited commencing 1st January 2017 for a term of 5 years at £4,130 per annum.

Box 3

REASON FOR THE DECISION:

The current tenant, Wedd (Flowers) Limited are holding over on a lease which expired on 8th March 2000. When they were granted a lease of the property it was given without security of tenure, however because they are holding over they now have security of tenure which would mean that if the property was required for redevelopment, as previously proposed, compensation would be payable to the tenant. In addition to which, whilst the tenant is holding over they could serve three months' notice to vacate at any time so there is currently little security of income.

The tenant wishes to sell their business so the first option was that they could renew their lease and then make an application to assign. The cons of this option are that it would be time consuming and require a lot of work for the tenant, Assets and Property and Legal. In addition, security of tenure would be granted. This option if too time consuming may also risk the tenant losing their purchaser because of the time involved to document the matter which may result in the tenant serving notice to vacate. This would leave a vacant property, with security implications, loss of income and costs of business rates and repairs etc.

A sensible alternative option is to simultaneously surrender the existing lease and grant a new lease to the proposed tenant (purchaser of the business) which would be excluded from the provisions of Sections 24 to 28 of the Landlord and Tenant Act 1954 meaning that the new tenant would not have security of tenure. This option would maintain the income stream, avoid the possible payment of compensation in the future and allow better control of the property if the proposed redevelopment works were to go ahead. It also avoids the costs involved if the property were vacant and needed re

letting together with the loss of rent and payment of rates and repairs etc.

The new tenant is a start-up business which has the backing of an existing business who are acting as guarantor. Satisfactory credit checks have been carried out on the guarantor.

The new lease has been agreed at passing rent which equates to £3.20 per sq ft. This is higher than would be expected on the open market as the most recent lettings achieved £2.34 per sq ft in 2014 and £2.03 per sq ft in 2015.

The agreed terms for the new lease are:

Term: 5 years commencing 1st January 2017

Rental: £4,130 pa

Use: Storage, wholesaling and distribution of flowers

Repairs: Full repairing and insuring

Costs: The lessee is responsible for the Council's reasonable legal and surveyors fees incurred in the preparation and completion of the deed of surrender and the new lease.

Guarantor: Tom Brown Wholesale Florists Limited

Box 4

OPTIONS CONSIDERED & REASONS FOR RECOMMENDED OPTION:

Options considered have been detailed above.

The proposed surrender and re grant provides the Council with the opportunity to maintain and income stream and have better control of the property should redevelopment of the area take place in the future.

Box 5

LEGAL IMPLICATIONS:

Under s.123 of the Local Government Act 1972 the Council has statutory power to dispose (including the grant of a lease) of non-housing/non-HRA land without the Secretary of State's consent for the best consideration reasonably obtainable.

Under the Council's Financial Procedure Rules the Council's Property Officer has authority to dispose of land at market value without Cabinet approval where the price being received is less than £1 Million.

Name: Adam Bottomley Signature: By email Date: 6 January 2017
Signature of Assistant Director of Legal and Democratic Services (or

representative)

Box 6

FINANCIAL IMPLICATIONS:

The new lease would yield the same rent as the existing lease so there are no financial implications arising from the decision.

Name: Marion Berrett Signature: Date: 3rd January 2017
Signature of Assistant Director of Finance & Performance
(or representative)

Box 7

HUMAN RESOURCE IMPLICATIONS:

There are no HR implications.

Name: David Knapp Signature: Date: 04/01/2017
Signature of Assistant Director of Human Resources and Communications (or
representative)

Box 8

PROCUREMENT IMPLICATIONS:

There are no direct procurement implications associated with this report

Name: S Duffield Signature: Date: 04/01/17
Signature of Assistant Director of Finance & Performance
(or representative)

Box 9

ICT IMPLICATIONS:

There is no network connectivity or ICT infrastructure at this site so therefore no ICT implications apply to this ODR.

Name: Dan Parry Signature: Date: 30.12.16
Signature of Assistant Director of Customers, Digital & ICT
(or representative)

Box 10

ASSET IMPLICATIONS:

The asset implications relevant to this decision are contained within the main body of this Officer Decision Record

Name: Gillian Fairbrother (Assets Manager, Project Co-ordinator)

Signature: By email

Date: 4th January, 2017

Signature of Assistant Director of Trading & Assets (or representative)

Box 11

RISK IMPLICATIONS:

There is no risk of the lease being surrendered and the new lease being granted as it will be ensured by Legal that the transaction is simultaneous.

Box 12

EQUALITY IMPLICATIONS:

To be completed by the report author

There are no equality implications.

Name: K Fry **Signature:** By Email **Date:** 23 December 2016

(Report author)

Box 13

CONSULTATION

Officers

(In addition to Finance, Legal and Human Resource implications and Procurement implications where necessary, please list below any other teams consulted on this decision, together with their comments)

Members

Under the Scheme of delegation, officers are responsible for day to day operational matters as well as implementing decisions that have been taken by Council, Cabinet, Committee or individual Cabinet members. Further consultation with Members is not ordinarily required. However, where an ODR relates to a matter which has significant policy, service or operational implications or is known to be politically sensitive, the officer shall first consult with the appropriate Cabinet Member before exercising the delegated powers. In appropriate cases, officers will also need to consult with the Chair of Council, Committee Chairs or the Chair of an Overview and Scrutiny Panel as required. Officers shall also ensure that local Members are kept informed of matters affecting their Wards.

Please list any comments from Members below:

Not applicable

