

***Please note Part 2 report is now confidential appendix.***

## **London Borough of Enfield**

### **Operational Report**

**Report of** [Mark Bradbury]

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**Subject:** [ Ladderswood- Commercial Unit 3 ]

**Executive Director:** [ Sarah Cary ]

**Ward** [ Southgate Green]

**Key Decision:** [ KD 5318 ]

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### **Purpose of Report**

1. To agree the proposal from Local Supermarket – a reputable franchisee for Unit 3, 6 Station Road, London N11 1FR- HRA commercial premise.

### **Proposal(s)**

2. It is recommended that the Council proceeds with an offer from Tenant A in accordance with the Heads of Terms appended in Part 2 (Confidential Report).
3. The Council's Managing and letting agents for the Ladderswood Commercial Units- Avison Young have been made several offers on this premises and the current offer received by a reputable local franchisee supermarket is one where they have been able to negotiate better terms.
4. The franchisee has requested a 15-year internal repairing lease and would like the lease to be contracted inside of the Landlord and Tenant Act 1954.

### **Reason for Proposal(s)**

5. This is ensuring that the unit is occupied by a reputable tenant that can serve the whole development and neighbouring community especially in these uncertain times. The marketing evidence provided has been that prevailing market conditions are 'tenant friendly' and occupiers are protecting themselves against a future pandemic with lease flexibility and specific lease drafting. Tenants are requesting additional incentives to commit now, and we envisage this being the same with the subject units, particularly as they are being offered on a shell and core basis.

A 15-year lease will provide the Council with 5 years extra of secured income which aligns with the wider property strategy and will have a positive impact on the capital value of the investment. It reduces the risk of

vacancy among the commercial units at the Ladderswood scheme which results in a longer-term tenant which will provide a convenience offering for the immediate community. Unfortunately, unit 3 is too small for the larger multiple operators who have minimum space requirements such as Tesco, Sainsbury's or Waitrose, but any of those operators would have demanded that the lease is inside the act. Likewise for the smaller, more local operators who typically enter into franchise agreements with the likes of Nisa, Budgens, and Cost cutter, it is their private money they are investing, in which they have to outlay a substantial capital expenditure at the outset to firstly take on the franchise, but then towards shop fit (bear in mind we are also providing shell and core handover so this is even higher in this case), and stock. They need enough time to amortise their costs to make back their money and they can't run the risk of their lease terms coming to an end after 10 years.

The Council's letting agent have confirmed that the terms agreed represent open market value and the opportunity to secure an immediate letting in the current uncertain retail market is also considered in the best interests of the council.

### **Relevance to the Council Plan**

6. This proposal is in line with the Council's ambition for good homes in well-connected neighbourhoods by delivering regeneration of the Ladderswood Estate to create a thriving and affordable neighbourhood and working with local businesses to develop a strong economy.

Build our local economy to create a thriving place: Ensuring residents are able to fully participate in activities within their neighbourhood.

### **Background**

7. Sherrygreen Homes and One Housing were selected as development partners for the Ladderswood project (under a Limited Liability Partnership named New Ladderswood LLP) by Cabinet in April 2011 (KD3220). The principle outcomes of the project were the replacement of 161 residential homes with 517 homes (368 private, 93 social, 56 intermediate and the replacement of 1,398sqm of commercial space and a 2,000sqm hotel.

The development was implemented on site in 17th March 2014 and since then the following has been delivered.

Phase 1 completed in October 2017, delivering 23 affordable homes and 17 privates Sale and Enfield's first Energy Centre run by energetic.

Phase 2 was completed on 20<sup>th</sup> March 2020, with 114 private sale and 21 London Affordable Rented homes (managed by One Housing Group) delivered.

The 85-bed hotel was completed on 2<sup>nd</sup> March 2020 and has been in occupation since restrictions relating to the Covid-19 pandemic were eased.

6 commercial units were completed in Dec 2020.

Phase 3 completed 11th February 2021. Phases 4, 5 and 6 are due to commence on site in June 2021, May 2023, and August 2023 respectively.

A full and detailed marketing campaign commenced in February 2020, this process being led by the Council's marketing and lettings consultants- Avison Young.

The units currently only benefit from B1(b) and B1 (c) uses and the advice from AY from the outset has been that in their opinion the units are not suitable for their existing uses due to the lack of parking and servicing and will deter interest in the open market.

With this mind the Council and it's planning consultants have been in liaison with the planning team since early 2020 on the change of use application to Class E, which was submitted in March 2021 and this was on the basis that we had completed a 12 month marketing period at the existing use class that planning required before they would consider a change of use. During this period only one response was received from an interested party that would consider occupying a unit under the permitted Use Class B1(b) and B1(c).

The planning application for the change of use was submitted in March 2021 and we are hopeful that the change of use to Class E will be approved to unlock some of the interest we have already received and to secure lettings for all six units.

### **Main Considerations for the Council**

8. The Council's letting agent has confirmed that the terms agreed represent open market value and the opportunity to secure an immediate letting once the change of use application is granted and in the current uncertain retail market is also considered in the best interests of the council.

This will also be beneficial for all the residents of the New Ladderswood Regeneration Development and the local community to have access to local amenities that provide all the essentials for their grocery shopping and to avoid unnecessary travel.

### **Safeguarding Implications**

9. The recommendations in this report do not have any safeguarding implications

### **Public Health Implications**

10. Accepting the bid by a reputable local supermarket franchisee for Units 3, at the Ladderswood Development will provide an income stream that the Council might use for the provision of other services

### **Equalities Impact of the Proposal**

11. All marketing for this and other units at Ladderswood have been carried out by a firm who specialise in letting and negotiating best terms for the client and is market led.

Since the pandemic the offers we have received have been as a result of 15 months of comprehensive marketing.

### **Environmental and Climate Change Considerations**

12. There is unlikely to be a significant additional negative impact to the original use class that would have been assessed as part of planning. Potentially the provision of a local supermarket offer will reduce the need for external trips by residents of the new development.

### **Risks that may arise if the proposed decision and related work is not taken**

13. The key risk will be that another tenant will need to be found and given that in these uncertain times the Council may not get a reputable tenant that provide long term income.

### **Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

14. Financial checks have been carried out on the prospective tenant, which indicate a firm financial standing which will mitigate the risk of non-payment of rent. The tenant also owns the freehold of a Costcutter Supermarket (post office) in Windsor which they have done for many years.

### **Financial Implications**

15. Budget impact - revenue

Lease expected to generate £204k (£172k net present value) over 5 year lease term and £689k (£448k net present value) over 15 year lease term to 2035/36 assuming rent increases 2%p.a. after 5 years (in line with long term Government CPI target) and rent free period of 4 months in first year.

Allowance for void and bad debt provision set at nominal 2% based on review of rent stability carried out by agents Avison Young.

Assumes no additional management charges internal or external

16. Budget impact - capital

Commercial units have been constructed and are operational with no further capital expenditure required.

Terms of lease permit tenant, with Council's consent, to make non-structural alterations to premises and make good any damage therefore no capital expenditure envisaged.

17. Debt

No impact – capital expenditure has already been incurred.

Taxation

VAT - Retrospective option to tax (effective 23<sup>rd</sup> May 1997) clearances obtained from HM Revenue & Customs 30th Oct 2020, enabling Council to recover applicable input tax and obligating charge of output tax at applicable rates on commercial rents.

No other tax implications.

18. Value for money and alternative uses

Council is freeholder of land although premises are subject to terms of a superior lease held by external investor.

Commercial units, which were completed in 2020, cannot therefore be disposed of under terms of this lease therefore there are no viable alternative uses.

Annual rent £44,368 (net) originated and confirmed by external valuers in accordance with RICS guidance.

**Legal Implications**

19. Disposals of property accounted for in the Housing Revenue Account (including by way of lease) require Secretary of State consent under s32 Housing Act 1985. The Secretary of State has issued the General Housing Consents 2013 which, amongst other things, permits the Council to dispose of assets that are not dwellings.

Any disposal of property must comply with the Council's Property Procedure Rule. In particular, where HRA is considering of making a disposal of vacant land it is required to first offer the opportunity for the General Fund to appropriate the vacant land. If the General Fund does not wish to appropriate the vacant land, the HRA must dispose of the vacant land in accordance with the processes and governance set out in the Property Procedure Rules. Officers have confirmed that the unit was advertised on the open market and that a valuation has been obtained in accordance with the requirements of the Property Procedure Rules.

The form of lease and any ancillary documents must be approved in advance of commencement by Legal Services on behalf of the Director of Law and Governance.

### **Workforce Implications**

20. There are no workforce implications

### **Property Implications**

21. Given the length of marketing and issues concerning appropriate planning consents, the proposed letting appears to represent a fair open market letting that is in line with PPR rules. The proposed 15 year lease is a protected tenancy giving the tenant the right of renewal at lease expiry. As the property comprises a new development, it is not foreseen that the Council will wish to take back possession at the end of the term and so the fact that a protected tenancy is being agreed should not be a material issue in terms of future redevelopment potential.

As the fit out is a shell and core the tenant will need to invest funds to fit out the property to their own specification, this upfront investment has been incentivised by providing a 4-month rent free period, where the letting agents Avison Young ensure such negotiations and incentives are appropriate.

The letting will need to be in line with market rental levels and evidenced as such through a valuation report as per the councils PPR rules. Agreeing to a 15-year lease gives the council a steady income stream over the medium to long term as well as positively adding to the Ladderswood development by the tenant providing a much-needed amenity to the local area.

Given the history and difficulties in securing interest in this unit, SPS consider this to be a suitable transaction and would recommend this for approval.

### **Other Implications**

22. There are no other considerations relating to this decision

### **Options Considered**

23. The alternative would be to try and get operators for the existing use class which has been none so far and thus have the units remain empty for longer.

### **Conclusions**

24. In order to have this commercial unit occupied will enable income generation for the Council and will avoid the unit sitting empty. It will also offer residents and local community to have access to grocery shopping within easy walk of where they live and thus avoid having to travel.

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## **Appendices**

### **Background Papers**

The following documents have been relied on in the preparation of this report:

- Heads of Terms as provided by Avison Young.