

	<h2>CHIEF OFFICER IN CONSULTATION WITH COMMITTEE CHAIRMAN DELEGATED POWERS REPORT</h2>
<p style="text-align: center;">Title</p>	<p>Surrender of sub-lease at Oakleigh Road South to extend Streetscene Services operational estate</p>
<p style="text-align: center;">Report of</p>	<p>Deputy Chief Executive in consultation with Housing and Growth Committee Chairman</p>
<p style="text-align: center;">Wards</p>	<p>All</p>
<p style="text-align: center;">Status</p>	<p>Public with associated Exempt Report.</p> <p>Exempt from publication in accordance with paragraph 3 of Schedule 12A of the Local Government Act 1972 on account that it contains information relating to the financial or business affairs of any particular person (including the authority holding the information)."</p> <p>Exempt from publication in accordance with paragraph 5 of Schedule 12A of the Local Government Act 1972 on account that it contains Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>
<p style="text-align: center;">Enclosures</p>	<p>Appendix A – Site Plan</p>
<p style="text-align: center;">Officer Contact Details</p>	<p>Andrew Cadge Estates Team – Asset Manager andrew.cadge@barnet.gov.uk</p>

Summary

London Borough of Barnet's Streetscene operational services currently operate from three locations: the Depot/BGL Site on Oakleigh Road South in Southgate, North London Business Park, and two sites out of borough in Harrow. Approval was given by the Housing and Growth Committee to enter into 2 headleases (6th July 2020). Approval is requested to surrender (paying a premium) a sub-lease of the BGL Site of one of these headleases to enable Streetscene to operate from this site with reduced operational risk and cost.

The financial considerations are contained within the Exempt Report.

Decision

- 1. Enter into a Deed of Surrender with Brogan Group Ltd to surrender the lease between Network Rail and Brogan Group Ltd dated 12th March 2015 (Expiry 14th March 2035) for the premium set out in the Exempt Report.**

1. WHY THIS REPORT IS NEEDED

- 1.1 A Deed of Surrender has been agreed with Brogan Group Ltd (BGL) to surrender their sub-lease of the 'BGL Site' back to LBB on 26th March 2021. This report requests approval to enter into this Deed. This enables Streetscene to continue to operate on the BGL site without risk to their occupancy and service delivery at a lower cost in the future.

2. REASONS FOR RECOMMENDATIONS

- 2.1 LBB has occupied this site since 25th October 2019 under 2 separate licences. The second licence expires on 26th March 2021. LBB had been unwilling to continue a perpetual cycle of expensive licences and occupational/service risk. Negotiations to take an assignment of the BGL lease stalled in 2020, therefore LBB sought to get control of the BGL lease by an alternative and cheaper option.
- 2.2 Thus LBB entered into a Headlease with Network Rail (Freeholder) on 27th November 2020 to inherit the BGL lease from Network Rail. The BGL lease contained a rolling 6 month break clause which LBB intended to exercise. This break was served with 6 months notice to take effect on the 5th September 2021.
- 2.3 Negotiations with BGL commenced alongside the break notice being served with terms agreed for an early surrender of the BGL lease simultaneous to the expiry of LBB's current licence on 26th March, and a surrender premium set-out in the exempt report.
- 2.4 Concluding this matter on 26th March enables Streetscene to continue its operation on the BGL site without risk of a further licence not being agreed or being terminated at any time (on reasonable notice) by BGL.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

3.1 No alternatives provided a better solution.

4. POST DECISION IMPLEMENTATION

4.1 The Deed of Surrender is intended to be completed, subject to receiving approval, on 26th March 2021. Streetscene will continue to operate as they currently do, but without any risk to delivery of services. A programme of improvement works is being costed to maximise the benefit of this site.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 The Barnet Plan 2021-2025 sets out a number of priorities to ensure Barnet is a Clean, Family Friendly, Healthy and Thriving borough.

5.1.2 The draft plan recognises that providing clean, safe and well-run services and excellent customer service is a key priority for the council. Barnet plans to provide this by:

- Improving customer service
- Addressing issues of anti-social behaviour such as frauds, fly-tipping, noise nuisance and parking
- Robust financial management
- Unlocking and optimising the potential of Parks and Open Spaces
- Better environmental services and a cleaner borough

5.1.3 The Barnet Plan also identifies Street Scene services as directly impacting every household within the borough, the success of businesses operating in the locality and the attraction for visitors to the area. The introduction of area based operating models with scheduled work programmes and reactive response teams will help keep streets and town centres clean and parks and public landscapes well maintained.

5.1.4 The council plans to enhance its Street Scene services based on the following priorities by:

- Shaping the Street Cleansing service to target issues that important to customers for example, littering and fly tipping
- Using customer insight and intelligence to help shape service delivery decisions that better meet customer's needs.
- Utilising mechanised equipment and new technological developments to help improve productivity
- Working with customers and businesses to maximise recycling and minimise waste.

5.1.5 The council's corporate plan published in Spring 2019 also sets out that one of the council's core purposes is to work together to ensure quality services. The corporate plan also includes a focus on ensuring services are delivered efficiently to get value for money for the taxpayer.

5.1.6 Barnet's Health and Wellbeing Strategy recognises the importance of access to good quality streets and spaces in maintaining Well-Being in the Community.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

Current Liability

5.2.1 The surrender premium and associated fees will be funded from budgets contained within Growth and Corporate Services in 2020/21.

5.3 Legal and Constitutional References

5.3.1 Under the council's Constitution Article 7, the Housing and Growth Committee Terms of reference include responsibility for regeneration strategy and the oversight of major regeneration schemes, asset management, employment strategy, business support and engagement.

5.3.2 The council has a statutory duty under section 45 of the Environmental Protection Act 1990 to arrange for the collection of waste.

5.3.3 The municipal waste provisions of the London Environment Strategy state a minimum level of service which waste authorities must undertake. The council also has a duty to undertake waste responsibilities in general conformity with the strategy. The Mayor has the power under s356 of The Greater London Authority Act 1999 to direct the council if its waste activities are considered detrimental to the implementation of the municipal waste provisions of the London Environment Strategy.

5.3.4 Under the Waste (England and Wales) Regulations 2011 (as amended) it is a requirement that every waste collection authority has in place separate collections for waste paper, metal, plastic and glass where they are necessary to facilitate or improve recovery and are technically, environmentally and economically practicable (TEEP), unless an authority could show it was not technically, environmentally or economically practicable to do so.

5.4 Insight

5.4.1 Not applicable.

5.5 Social Value

5.5.1 The risk of services being affected by the lease uncertainty at the BGL site and the consequential impact on Barnet's residents would be mitigated by proceeding with this Deed of Surrender.

5.6 Risk Management

5.6.1 This surrender de-risks Streetscene's occupation and operations from the BGL site by removing the BGL Lease which led to LBB having to negotiate rights to occupy with BGL.

Further Risks:

It is important to reiterate the risks to LBB's occupation within both Headleases:

- NR has break clauses on 6 months notice at any time, so they could be terminated prior to November 2045;
- The Headleases are Outside the 1954 Act, meaning that LBB does not have a legal right to renew;
- *LBB also has a right to break on 6 months notice at any time.*

However, it must be noted that these are not terms that Network Rail are insisting on for these leases only, rather these are their standard terms. The Winters site leases both contained the same terms before they were included within one of the new headleases.

It is worth noting further that the land is a Site of Strategic Freight Importance, so it is essential for Network Rail to be able to recover the site if a Freight Operating Company makes a claim to occupy. Whilst this is a consideration for LBB's long term aspirations, the reality is that if there is interest from a FOC to use this site, it would be a very lengthy and costly exercise so LBB would have ample time, likely years, to find an alternative site.

5.7 Equalities and Diversity

5.7.1 Pursuant to the Equality Act 2010, the council and all other organisations exercising public functions on its behalf must have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; advance equality of opportunity between those with a protected characteristic and those without; promote good relations between those with a protected characteristic and those without. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. It also covers marriage and civil partnership with regard to eliminating discrimination.

5.7.2 We have considered whether these proposals will give rise to any issues under the Council's Equalities or Diversity policies and do not consider that there are any such concerns.

5.8 Corporate Parenting

5.8.1 Corporate parenting is not applicable.

5.9 Consultation and Engagement

5.9.1 Not required.

6. BACKGROUND PAPERS

- 6.1 Policy and Resources Committee – 3 October 2019.
- 6.2 Chief Officer Decision dated November 2019 and May 2020 authorising the original licence to occupy and its extension.
- 6.3 Housing and Growth Committee Officer Report and Minutes – 6th July 2020.

REPORT CLEARANCE CHECKLIST

(Removed prior to publication and retained by Governance Service)

Note: All delegated powers reports must be cleared by the appropriate Senior Officer, Legal, Finance and Governance as a minimum. Report authors should also engage with subject matter experts from other service areas where this is required (e.g. procurement, equalities, risk, etc.). The name and date that the officer has cleared the report must be included in the table below or the report will not be accepted.

Legal, Finance and Governance require a minimum of 5 working days to provide report clearance. Clearance cannot be guaranteed for reports submitted outside of this time.

AUTHOR TO COMPLETE TABLE BELOW:

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Committee Chairman	25/03/2021	Richard Cornelius
HB Public Law	23/03/2021	Ian Goldsmith
Finance	24/03/2021	Damien Pantling
Governance	24/03/2021	Jan Natynczyk
LBB Estates	23/03/2021	Melanie Chiknagi
Growth	24/03/2021	Cath Shaw

Notes:

This report is for decisions with a value between £189,330 and less than £500,000 but excluding all key decisions – if in doubt please consult the Governance Team. The report must not be implemented until cleared by both the relevant Committee Chairman and Chief Officer. Both names should be listed on the cover page in the ‘Report of’ section.