	CHIEF OFFICER IN CONSULTATION WITH COMMITTEE CHAIRMAN DELEGATED POWERS REPORT 13 May 2021
Title	Brent Cross South Retail Park – Unit G1 Surrenders and New Letting
Report of	Chief Executive in consultation with Housing and Growth Committee Chairman
Wards	Childs Hill, Golders Green and West Hendon
Status	Public with accompanying Exempt Report. 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).
Enclosures	None
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Summary

Unit G1 is let to Lloyds Pharmacy Ltd on a lease expiring 23rd June 2021. They are not in occupation and the unit is sub-let to Designer Living Ltd, trading as Natuzzi. Early surrenders have been agreed by the Council with Lloyds with a contemporaneous surrender of the sub lease granted by Lloyds to Designer Living. The surrenders will take place immediately before the grant of a new 10 year lease to Designer Sofas (Brent Cross) Ltd.

Decision

That the Chief Executive:

(a) authorises the Council entering into a Deed of Surrender on Unit G1 with Lloyds Pharmacy Ltd;

(b) authorises the Council entering into a Deed of Surrender on Unit G1 on the sub-lease with Designer Living Ltd; and
(c) authorises that the Council enters into a new 10 year lease on Unit G1 with Designer Sofas (Brent Cross) Ltd.

1. WHY THIS REPORT IS NEEDED

- 1.1 The lease on Unit G1 expires on 23rd June 2021. This report requests approval to enter and complete the various agreements required to ensure the unit is re-let prior to expiry, to provide on-going income.
- 1.2 A Deed of Surrender has been agreed with Lloyds Pharmacy Ltd to enable an early surrender of their lease which expires on 23rd June 2021;
- 1.3 A new 10 year lease has been agreed with Designer Sofas (Brent Cross) Ltd. To enable this lease to be entered into, the sub-lease to Designer Living Ltd will also be surrendered by the Council completing a further Deed of Surrender.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The current lease with Lloyds Pharmacy Ltd producing £314,000 pa expires on 23rd June 2021. The lease is within the 1954 Act. This will not be renewed as Lloyds has sub-let the Unit for a number of years to Designer Living Ltd. LBB needs to re-let the Unit to ensure continuity of income in accordance with the financial model referred to in the Delegated Powers Report of 27th January 2021 for the Acquisition of Brent Cross South Retail Park – a link is provided at the end of this report;
- 2.2 The previous owner had initiated negotiations with the sub-tenant for a new lease and LBB were aware of the terms being discussed at the time of the Council's acquisition of the reversionary interest on 5 February 2021;
- 2.3 LBB acquired the retail park for incorporation into the Brent Cross South Masterplan Regeneration, with on-going asset management to generate income prior to a transfer to Argent Related. Therefore any leasing transactions need to enable London Borough of Barnet (LBB)/Argent Related to obtain Vacant Possession (VP) when required. The current indication on the earliest date VP could be required is 1st April 2026;
- 2.4 This new lease is for a 10 year term with an upwards only rent review after 5 years. To meet the VP requirement above, LBB has a break on 6 months notice at any time to take effect on, or after, 31st March 2026. The Tenant has an identical break to de-risk its exposure to being locked into a lease where trading is not possible because of an empty park. These break options can be removed at any time by LBB at its sole discretion, for example if redevelopment is not envisaged prior to expiry in 2031;
- 2.5 The lease will be contracted out of the Security of Tenure provisions of the Landlord and Tenant Act (1954). This simplifies the process for termination for the Council. This also means that the Tenant does not have an automatic right to renew the lease upon expiry.

The Landlord does not have to pay statutory compensation to the Tenant upon termination/expiry either;

- 2.6 A rent guarantee is being provided by Designer Sofas (London) Ltd which is set out in the lease. This gives additional comfort on rent payments being received.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 **Do Nothing.** The contracted income from Lloyds Pharmacy Ltd ceases on 23rd June 2021. There is no statutory entitlement or legal agreement with the sub-tenant to enable it to continue in occupation so the proposed direct lease addresses this on terms that allow the Council's regeneration programme to be managed as well.
- 3.2 **Continue to re-market Unit.** Occupational demand is not strong for retail park units, in spite of their comparative popularity to shopping centres during the pandemic. An alternative transaction would complete later than the one recommended. This would likely have a negative financial impact.
- 3.3 **Enter into new lease with current sub-tenant following expiry of current lease.** This delay until 24th June would create letting risk as well as being financially disadvantageous to LBB.

4. POST DECISION IMPLEMENTATION

- 4.1 The Deeds of Surrender and New Letting will complete simultaneously. Solicitors will collect completion monies at the same time;
- 4.2 The managing agents, Workman Partners, will process the documents and invoice the Tenant for all sums due during the lease. Rents received will be transferred to LBB as specified by Finance.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 As set out in the report to the Housing and Growth Committee on 6 July 2020. [Brent Cross Cricklewood Report.pdf \(modern.gov.co.uk\)](#)
- 5.1.2 In consultation with Argent Related Joint Venture (JV), Regeneration has confirmed that leases can be granted (without Landlord Break Rights) upto 31st March 2026. This meets the current timescale/objectives of the JV.
- 5.2 **Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

Current/Revised Income

- 5.2.1 The rent for the new lease has been agreed in line with current market values for leases on similar terms.

5.3 Legal and Constitutional References

- 5.3.1 The Council has a range of powers to enter into the legal agreements envisaged by this report, including the general power of competence under Section 1 of Chapter 1 of the Localism Act 2011 to do anything that individuals can do subject to any specific restrictions contained in legislation and Section 111 of the Local Government Act 1972 which provides that a local authority has power to do anything which is calculated to facilitate, or is conducive or is incidental to, the discharge of its functions.
- 5.3.2 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.
- 5.3.3 Chief Officers have delegated authority to make decisions in accordance with the powers delegated (see Article 9) and other Officers under the Schemes of Delegation maintained by Chief Officers and published on the council's website.
- 5.3.4 Article 10.4 provides for Chief Officers, in consultation with Theme Committee Chairmen to make decisions for values between £189,330 and £500,000. Table A within Article 10 shows that this applies to annualised income, rather than total income. The proposed rent falls within the parameters above.

5.4 Insight

- 5.4.1 Retail Warehouse market trends and demand have been considered in making this decision, in consultation with the letting agents.

5.5 Social Value

- 5.5.1 Not applicable

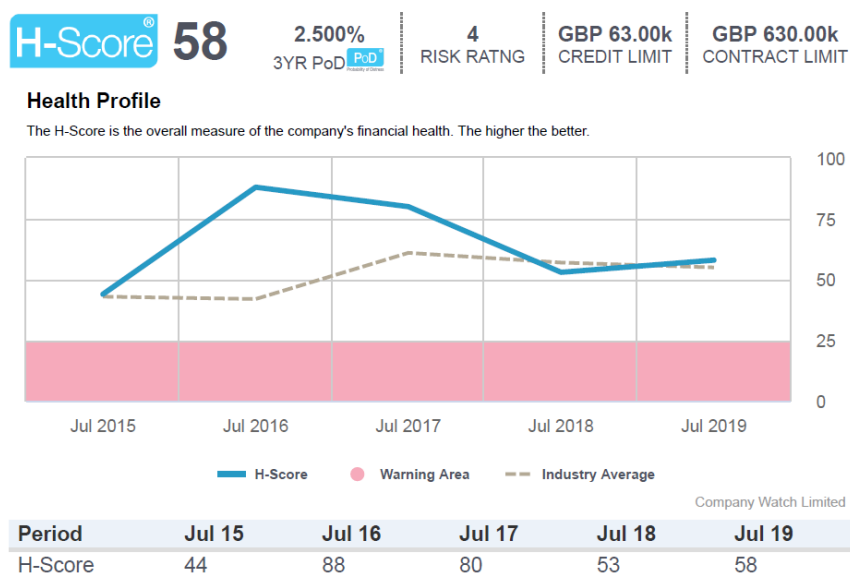
5.6 Risk Management

- 5.6.1 Entering into these surrenders and the new lease minimises the risk to LBB of losing income through having a vacant unit as well as the risk of unlawful occupation of a vacant unit by a third party;
- 5.6.2 The Tenant is providing a parent company rent guarantee from Designer Living (London) Ltd. This is included within the lease;
- 5.6.3 The Finance team has undertaken the standard Council financial ratio analysis viewpoint on the guarantor. This includes assessment of the Companywatch Report referred to below. They conclude:
"In summary, the company is operating above the industry average for the time period evaluated with increasing turnover and profits. A risk however is their liquidity position of

cash at bank vs liabilities, this signifies a potential future operating cashflow issue based on the current data. The time period also does not take into account the pandemic.”

The Companywatch financial analysis reports:

- £1.4m net worth;
- Health Score – 58/100, slightly higher than industry (retail textiles) average;
- Probability of Distress in next 3 years – 2.5%;
- The company is significantly above the 'Warning Area' highlighted in red.



During the Covid closures, the Group/Guarantor has continued to sell on-line and has benefited from increased spend on furniture for the home. This unit has been occupied by a group company since 2013 therefore there is strong understanding of the trading potential. Furthermore, another group company is taking a new lease on the vacant Unit F1 – see separate DPR requesting approval for this letting. Approximately £500,000 is being spent by the tenant fitting out F1 and re-fitting G1, which indicates reasonable liquidity to be able to afford this investment. Additionally rent free periods are being granted that will assist cashflow at the start of these leases.

The managing agent, Workman Partners, will monitor rent collection statistics and report to LBB accordingly so that suitable action can be taken to recover any unpaid rent.

5.6.4 Upon expiry/termination, the Tenant has to remove all possessions and leave in a clean and tidy condition. The standard requirement is full reinstatement of alterations, but this lesser obligation has been agreed due to the intention to redevelop and requirement for the Lease to be outside of the 1954 Act Security of Tenure provisions. Therefore there is a risk to LBB for removing any alterations if re-development does not proceed.

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 or impacts.

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 Urgency Committee – 5th January 2021:

[Brent Cross South Retail Park Acquisition Report.pdf \(moderngov.co.uk\)](#)

6.2 Housing and Growth Committee – 25th January 2021:

[Brent Cross Update report.pdf \(moderngov.co.uk\)](#)

6.3 Delegated Powers Report – 28th January 2021, Acquisition of Brent Cross South Retail Park:

[Decision - Brent Cross Cricklewood - Acquisition of Brent Cross South Retail Park \(moderngov.co.uk\)](#)

Signed: Chairman of the Housing and Growth Committee

Date: 13.05.21

Signed: Chief Executive

Date: 12.05.21