

	CHIEF OFFICER IN CONSULTATION WITH COMMITTEE CHAIRMAN DELEGATED POWERS REPORT 13 May 2021
Title	Brent Cross South Retail Park – Unit A Lease Renewal
Report of	Chief Executive in consultation with Housing and Growth Committee Chairman
Wards	Childs Hill, Golders Green and West Hendon
Status	Public with associated 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 A (“the Property”) is let on a lease expiring 17th May 2021 to Sofology Ltd. This lease is held inside the Security of Tenure provisions of the Landlord and Tenant Act 1954 which means the tenant has an automatic right to renew on similar terms, save for the lease length and rent.

Terms have been agreed for a lease renewal from expiry to 31st March 2026.

Decision

- To authorise that the Chief Executive confirms and directs that the Council completes a new 5 year lease (“New Lease”) on Unit A with Sofology Ltd to reflect the terms set out at in the attached Exempt report.**

1. WHY THIS REPORT IS NEEDED

- 1.1 The Council (LBB) acquired the freehold reversionary interest relating to the Lease on the 5 February 2021. The current lease to Sofology Ltd expires on 17th May 2021. Terms have been agreed with Sofology to take a new lease ("Lease") on the expiry of the current lease for a term expiring 31st March 2026.

2. REASONS FOR RECOMMENDATIONS

- 2.1 LBB wishes to secure continued income from this unit 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 Terms have been agreed with Sofology Ltd for a lease expiring on 31st March 2026 and as further set out in the accompanying Exempt Report.
- 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 by way of long lease to Argent Related. Therefore any leasing transactions need to enable 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 To meet the VP requirement above, this Lease will expire on 31st March 2026;
- 2.5 The Lease will be continue to be inside the Security of Tenure provisions of the Landlord and Tenant Act 1954. This means that the Tenant continues to have an automatic right to renew the lease upon expiry.
- 2.6 The Landlord is only able to determine the renewal lease by the service of a s25 Notice. Any notice serve by the Council as landlord will need to specify 'ground (f)', redevelopment as the basis of requiring possession of the premises. Statutory compensation of two times the Rateable Value would be payable if the tenant or Court agrees that there is a valid ground for termination in 2026.
- 2.7 Negotiations to grant the Lease Outside of the 1954 Act proved unsuccessful.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 **Do Nothing.** This is not an option as the Tenant has already served a S.26 Notice requesting a new lease. If terms are not agreed between the parties, then the Tenant can apply to a court to decide the proposed terms of the lease. It is considered better to

negotiate then have protracted Court proceedings with attendant costs and uncertainty around the outcome, in particular the critical VP date.

- 3.2 **Seek to renegotiate terms.** The lease duration to achieve VP is critical for LBB and this has been agreed as required for 31st March 2026.

4. POST DECISION IMPLEMENTATION

- 4.1 The Lease will complete then the managing agents, Workman Partners, will process the Lease 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 \(moderngov.co.uk\)](#)

- 5.1.2 In consultation with Argent Related Joint Venture (JV), Regeneration has confirmed that leases can be granted (without Landlord Break Rights) up to 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. This Lease falls within these parameters. The Council is in any event required by law to enter into a new lease where the tenant is a qualifying tenant under the Landlord and Tenant Act 1954.

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 this Lease minimises the risk to LBB of losing income through the Tenant committing for a further term;

The Tenant has been in occupation at the park for 10 years, has a good payment history (including during the pandemic) and currently has no arrears. It's ultimate parent company is DFS Furniture plc (DFS also trades at the park), which released strong half yearly results for H2 2020 recently.

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 on the aforementioned arising from this proposal.

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 \(modern.gov.co.uk\)](#)

6.2 Housing and Growth Committee – 25th January 2021:

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

6.3 Delegated Powers Report – 27th January 2021, Acquisition of Brent Cross South Retail Park:

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

I concur with the above decision:

Signed

Chief Executive

AND

Chairman of Housing and Growth Committee

Date

13.5.2021
