

	<p><b>CHIEF OFFICER IN CONSULTATION WITH COMMITTEE CHAIRMAN DELEGATED POWERS REPORT 15<sup>th</sup> November 2021</b></p>
<p style="text-align: center;"><b>Title</b></p>	<p>Brent Cross South Retail Park – Unit G2 Surrender and Re-Letting</p>
<p style="text-align: center;"><b>Report of</b></p>	<p>Deputy Chief Executive in consultation with Housing and Growth Committee Chairman</p>
<p style="text-align: center;"><b>Wards</b></p>	<p>Childs Hill, Golders Green and West Hendon</p>
<p style="text-align: center;"><b>Status</b></p>	<p>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).</p>
<p style="text-align: center;"><b>Enclosures</b></p>	<p>None</p>
<p style="text-align: center;"><b>Officer Contact Details</b></p>	<p>Andrew Cadge Estates Team – Asset Manager <a href="mailto:andrew.cadge@barnet.gov.uk">andrew.cadge@barnet.gov.uk</a></p>

## Summary

Unit G2 is let to Novia Furniture Ltd on a lease expiring 3<sup>rd</sup> August 2022. The surrender will take place immediately before the grant of a new lease (Outside of the 1954 Act) and expiring 31<sup>st</sup> March 2031 to the same party.

## Decision

**That the Deputy Chief Executive:**

**(a) authorises the Council entering into a Deed of Surrender on Unit G2 with Novia Furniture Ltd;**

**(b) authorises that the Council enters into a new lease expiring 31<sup>st</sup> March 2031 on Unit G2 with Novia Furniture Ltd.**

## 1. WHY THIS REPORT IS NEEDED

- 1.1 The lease on Unit G2 expires on 3<sup>rd</sup> August 2022 and is Outside of the 1954 Act. This report requests approval to enter and complete the 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 Novia Furniture Ltd to enable it to enter into a new lease;
- 1.3 A new lease expiring 31<sup>st</sup> March 2031 has been agreed with Novia Furniture Ltd.

## 2. REASONS FOR RECOMMENDATIONS

- 2.1 The current lease with Novia Furniture Ltd producing £150,000 pa expires on 3<sup>rd</sup> August 2022. LBB needs to renew the lease or re-let the Unit to ensure continuity of income in accordance with the financial model referred to in the Delegated Powers Report of 27<sup>th</sup> January 2021 for the Acquisition of Brent Cross South Retail Park – a link is provided at the end of this report;
- 2.2 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 BXT JVLP. Therefore any leasing transactions need to enable London Borough of Barnet (LBB)/Argent BXT to obtain Vacant Possession (VP) when required. The current indication on the earliest date VP could be required is 1<sup>st</sup> April 2026;
- 2.3 The new lease is for a term expiring 31<sup>st</sup> March 2031 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, 31<sup>st</sup> 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. The rolling break options after 31<sup>st</sup> March 2026 can be removed at any time by LBB at its sole discretion, for example if redevelopment is not envisaged prior to expiry in 2031. The Tenant does have the opportunity to break in response, prior to the breaks being rescinded;
- 2.4 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.

## 3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 **Do Nothing.** The contracted income from the Tenant ceases on 3<sup>rd</sup> August 2022. The Tenant could remain in occupation on Tenancy at Will at the current rent. It could leave at

any time and therefore provides no certainty of income for the period up to 31<sup>st</sup> March 2026.

- 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. It would be challenging to attract a new tenant in with only 3.5 years to the current anticipated VP date on reasonable commercial terms. There would also be a risk to LBB's income due to potential void period, rent free and lower rent to compensate for the short term certain that would be offered.

#### **4. POST DECISION IMPLEMENTATION**

- 4.1 The Deed of Surrender and New Letting will complete simultaneously;
- 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) up to 31<sup>st</sup> 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 Article 10.8 – Decisions relating to Property – states that Table A applies where the requirement for the Council to enter into the contract or obligation is not required by law. Table A states that a disposal which has a value between £189,330 and £500,000 must be authorised by a Delegated Powers Report signed by the Chief Officer in consultation with the theme committee chairman. 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 this new lease minimises the risk to LBB of losing income through not having an occupier paying rent from the current lease expiry up to the potential VP date in March 2026;

5.6.2 The Tenant is currently up to date with rent and service charge payments;

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. Their summary includes the following:

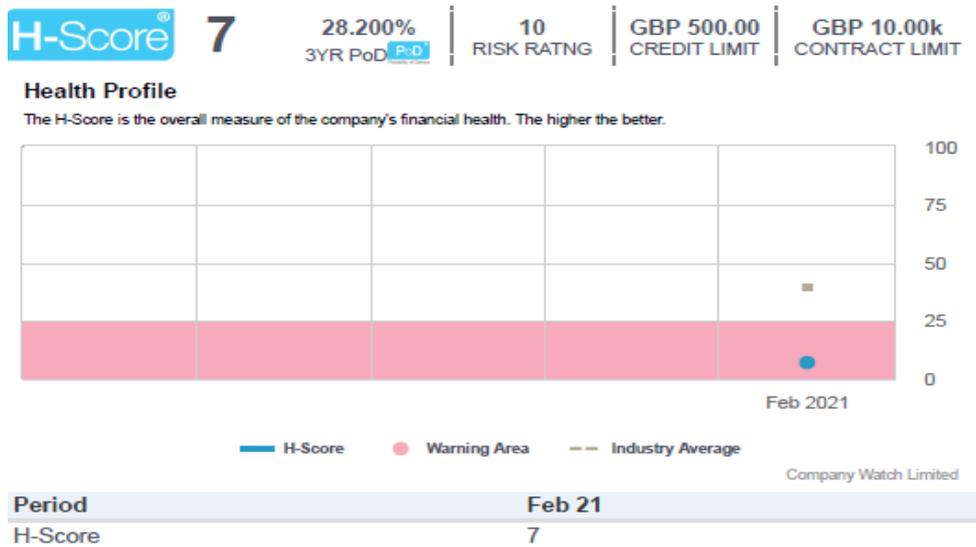
“This report has provided an assessment and analysis of the profitability, liquidity, performance and financial position of the company using figures from the financial statement for year ending 2020-21.

In the analysis, financial ratios were used to gain a critical review of the specific areas of assessment of the company’s performance. The ratios provided a clear view of the overall performance of the company. Overall, the financial year ending in 2021 has not been profitable mainly because of the Covid-19 impact and high overhead costs. Post review of the balance sheet, it can be seen the future does not look positive due to significant loss and unhealthy financing structure (negative equity) that relies heavily on debts.

This analysis is limited mainly due to the lack of a larger data set available and as NOVIA FURNITURE is a new business. Hence, no comparative study has been made possible. If the company had a few years of financial statements we would have had a better comparison and given the nature of the business, it would have been interesting to evaluate the company by comparing with the industry benchmarking standards.

Nevertheless, NOVIA FURNITURE LTD is an existing tenant and has been in occupation at the retail park over a year with on-time rental payments even during the pandemic and has no arrears.”

The Companywatch financial analysis reports:



So the Tenant has a very poor financial record, however it is paying rent and service charge on time. As this is a renewal to an existing tenant then LBB is in no worse position by completing this renewal, particularly as no rent free is being granted and the rent increases. 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 should the current prompt payment record not continue.

## 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 – 5<sup>th</sup> January 2021:

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

6.2 Housing and Growth Committee – 25<sup>th</sup> January 2021:

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

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

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

## 7. DECISION TAKER'S STATEMENT

7.1 I have the required powers to make the decision documented in this report. I am responsible for the report's content and am satisfied that all relevant advice has been sought in the preparation of this report and that it is compliant with the decision-making framework of the organisation which includes Constitution, Scheme of Delegation, Budget and Policy Framework and Legal issues including Equalities obligations. The decision is compliant with the principles of decision making in Article 10 of the constitution.

**Chairman: Housing and Growth Committee Chairman**

**Dated: 12/11/2021**

**Chief Officer: Deputy Chief Executive**

**Dated: 11/11/2021**