

Cabinet 27 February 2019	 TOWER HAMLETS
Report of: Ann Sutcliffe, Acting Corporate Director PLACE	Classification: Partial Exemption (Appendix B)
Disposal of 34 Mount Terrace, London, E1 2BB and Lease renewal of 17-19 Brick Lane, London, E1 6PU	

Lead Member	Mayor John Biggs
Originating Officer(s)	Alan McCarthy Acting Head of Asset Management
Wards affected	Spitalfields and Banglatown
Key Decision?	No
Forward Plan Notice Published	3 December 2019
Reason for Key Decision	Financial Threshold
Strategic Plan Priority / Outcome	N/A

Executive Summary

This report deals with two matters. The first relates to a lease renewal of 17-19 Brick Lane which is discussed in sections 1 to 9 and the second to a disposal of a disused dilapidated residential property at 34 Mount Terrace in sections 11 to 18.

1. 17-19 BRICK LANE

The current lease of 17-19 Brick Lane has expired and under the Landlord and Tenant Act 1954, the Tenant has a statutory right to renew under the same terms as the existing lease save for minor modifications reflecting reasonable modern equivalent terms.

The current lease was for 20 years at a passing rent of £31,350 per annum.

The new proposed lease is for 15 years at an initial rent of £37,000 per annum.

2. RECOMMENDATIONS:

The Mayor in Cabinet is recommended to:

- 2.1 Consider the contents of this Report and approve the completion of the statutory lease renewal of 17-19 Brick Lane to the current Tenant for a term of 15 years at an initial rental of £37,000 per annum.
- 2.2 Delegate to the Acting Corporate Director of Place in consultation with the Corporate Director of Governance the authority to agree the heads of terms

and thereafter, to prepare, complete and execute the required legal documentation for the new 15 year lease in order to give effect to the decision.

3. REASONS FOR THE DECISIONS

- 3.1 The Tenant has a statutory right to renew the current lease through provisions of Part II of the Landlord and Tenant Act 1954 granting security of tenure.
- 3.2 Cabinet approval is required as the sum of the initial rental (£37,000 per annum) for the term of the lease (15 years) exceeds the maximum approval limit for Delegated Authority. The total consideration sum for the full term of the lease equates to £555,000 without taking into account the provisions for upward rent reviews which occur 5 yearly.

4. ALTERNATIVE OPTIONS

- 4.1 As stated in section 1.1 above, the Tenant has a statutory right to renew the lease, as such, unless the Council requires the property back for redevelopment (which it does not), a new lease cannot be refused. In any case, an application to the Courts by the Tenant would see a new lease granted and costs likely to be awarded against the Council.

5. DETAILS OF REPORT

- 5.1 17 – 19 Brick Lane is a double shop located at the southern end of Brick Lane. It forms part of a parade of street level shops under residential dwellings. The shops are managed by LBTH Asset Management and the residential above is managed by Tower Hamlets Homes. The building is of fair to average condition and appeal.
- 5.2 The adjoining shops comprise a mix of uses that typify a retail parade in a slightly secondary location. Whilst the northern end of Brick Lane attracts a mixed cultural and social customer, the southern end caters mainly for local residents with convenience style uses.
- 5.3 17-19 Brick Lane is a grocery store that was originally leased for a term of 20 years at a rental of £20,000 per annum. It has been assigned a number of times with the most recent being in 2012.
- 5.4 The property has a rateable value of £88,000 as at 1 April 2017.
- 5.5 As the lease was expiring, negotiations commenced on the terms for the renewal. GVA, the Council's consultants, was commissioned to determine the new rent and negotiate the terms for a new lease.
- 5.6 The rental value determined by GVA lies between £36,855 and £43,680.

5.7 A term of 15 years has been agreed with 5 yearly rent reviews based on open market rent.

6. EQUALITIES IMPLICATIONS

17-19 Brick Lane

6.1 There are no equalities implications as this matter is a statutory lease renewal.

7. OTHER STATUTORY IMPLICATIONS

7.1 There are no statutory implications for either matter.

8. COMMENTS OF THE CHIEF FINANCE OFFICER

8.1 This report seeks the agreement of the Mayor in Cabinet to the terms of the lease renewal of the retail units at 17-19 Brick Lane. The proposed lease terms have been assessed and negotiated by the Council's Asset Management section, with external independent advice obtained from GVA.

8.2 The property is held under Housing Revenue Account (HRA) powers. Agreeing the proposals in the report will secure initial annual income of £37,000 to the HRA, an increase of £5,650 on the existing rental charge of £31,350 per annum. The proposed lease term is fifteen years, with five-yearly market rent reviews being undertaken.

8.3 The costs of the support provided by GVA have been met from existing HRA revenue resources.

9. COMMENTS OF LEGAL SERVICES

9.1 Under Section 123 of the Local Government Act 1972 , local authorities have powers to dispose of land in any manner they wish, including granting a lease. However, a disposal must be for the best consideration reasonably obtainable, (except in the case of short tenancies), unless the Secretary of State consents to the disposal.

9.2 A lease granted for a term of more than seven years is not a short tenancy for the purposes of section 123 of the Local Government Act 1972. Therefore, the requirement to obtain the best consideration reasonably obtainable set out in the Local Government Act 1972 applies to the lease proposed by this Report.

9.3 It is confirmed at paragraphs 3.5 to 3.7 of this Report that the rent negotiated is the best consideration reasonably obtainable, thereby satisfying the requirements of section 123 of the Local Government Act 1972.

- 9.4 This Report confirms at paragraph 1.1 that the current lease is within the security of tenure provisions of the Landlord and Tenant Act 1954. The renewed lease will therefore similarly have the benefit of security of tenure under that Act and the Council may only bring the lease to an end on expiry of the term if certain statutorily limited grounds for doing so can be proven to apply. Otherwise at the end of the term the tenant will have the right to call for a new lease and the Council will be obliged to renew the lease.

Linked Reports, Appendices and Background Documents

Linked Report

- NONE.

Appendices

17-19 Brick Lane

- None

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- NONE for either report

Officer contact details for documents:

N/A

Section Two

Executive Summary

10. 34 MOUNT TERRACE

34 Mount Terrace ('the property') is a 3 level end of terrace house with basement and large rear garden, located just off Whitechapel Road.

The property is Grade II listed in a poor state of repair and has been vacant for the past three years.

Consultation with the Strategic Housing and Capital Delivery teams indicated that this property is not suitable for housing requirements and as such is best suited to being disposed of. The costs to renovate and convert are estimated to be in excess of £300,000 and therefore not considered cost effective.

A valuation has been undertaken by Copping Joyce, the Council's independent valuation consultant ('consultant') on 12th October 2018. A copy of the exempt report is appended at Appendix B to this report. The information contained in Appendix B is considered as being exempt in accordance with section 12A of the Local Government Act 1972 (as amended by the Local Authorities (Access to Information) (Exempt Information) (England) Order 2006) 1972 Act, (3) Information relating to the financial or business affairs of any particular person (including the authority handling the information).

This report sets out the proposal for the disposal of the 34 Mount Terrace, London, E1 2BB.

11. RECOMMENDATIONS:

The Mayor in Cabinet is recommended to:

- 11.1 Agree that the property (as shown on the plan in Appendix A) is surplus to requirements;
- 11.2 Agree to the disposal of the site by private treaty or auction;
- 11.3 Agree to the disposal of the site on a 199 year lease;
- 11.4 Authorise the Acting Divisional Director Property & Major Programmes, to appoint external agents or auctioneers to support the marketing of the site;
- 11.5 Authorise the Acting Corporate Director for Place, following consultation with the Director of Law Probity and Governance, to agree the terms and conditions of any agreements required to implement the recommendations above

12. REASONS FOR THE DECISIONS

- 12.1 It is important at a time of reduced funding and budgets in the public sector to ensure that efficiencies are driven through the running and/or disposals of the Council's assets to reduce revenue costs.
- 12.2 The decisions in this report will contribute to the continual review and rationalisation of the Council's assets, and help reduce the operational portfolio to the minimum required.
- 12.3 The disposal will generate a capital receipt which will be used to support the Council's capital programme which includes a commitment to invest in the supply of new affordable housing. It will also reduce revenue expenditure on upkeep and maintenance.

13. ALTERNATIVE OPTIONS

- 13.1 The Council has considered the following three options for refurbishing the property:
- 1 Refurbish and retain within the HRA charging social rents. Under this model the net annual income generated by the 1 x 1 bed and 1 x 2 bed units would initially be in the region of £8,000 and it take over 30 years to recoup the cost of refurbishment.
 - 2 Refurbish and retain within the HRA and use the 1 x 1 bed and 1 x 2 bed units for temporary accommodation at Local Housing Allowance rents. Under this model the initial net annual income equates to around £21,000 and would take approximately 20 years to recoup the cost of refurbishment
 - 3 Refurbish and place 1 x 1 bed and 1 x 2 bed units into the Councils Wholly Owned Company, Seahorse Homes Ltd, where market rents could be charged. Under this model the initial net annual income equates to around £30,000 and would take approximately 12 years to recoup the cost of refurbishment.
- 13.2 The total costs of refurbishment and conversion are estimated around £300,000 which could result in a configuration of 1 x 1 bedroom and 1 x 2 bedroom flats based on an analysis of the individual dwelling sizes under this configuration meeting the space standards set out in Policy DM4 of the Councils Managing Development Document as dictated by the London Plan for minimum dwelling sizes.
- 13.3 The likely timescale to implement any of the above options would include

around 9 months for design, planning and procurement followed by a 6-12 month build time. Complications may arise from the listed nature of the property which in itself carries and potential delays with planning and provides construction challenges.

- 13.4 If this property were disposed of it is expected that the capital receipt could fund the purchase of two fit-for-immediate-habitation properties in the same 1 x 1 bedroom and 1 x 2 bedroom configuration.

14. DETAILS OF REPORT

- 14.1 The Council has a significant operational and commercial portfolio that it manages. Officers continually review the property portfolio and bring forward sites for direct development and/or disposal from time to time. The direct development options depend on the availability of funding and the size of the redevelopment opportunity. Disposal of surplus sites reduces the revenue costs for the maintenance and security of vacant buildings, while generating a capital receipt.
- 14.2 This report is in relation to a Council property that has been vacant since 2015 and is in need of major repair and refurbishment.
- 14.3 The success of the disposal will also be enhanced by undertaking pre-sale due diligence such as surveys and reports. This will help expedite the process of concluding exchange of contracts with the successful bidders.
- 14.4 The methods of disposal available to the Council are either by private treaty sale or by auction. Both of these methods will be considered in detail as part of the disposal process.
- 14.5 The marketing of private treaty will involve instructing a local firm of estate agents to market the property for a minimum period to ensure maximum exposure to the market. This method of sale, whilst potentially taking longer could maximise the potential of a sale with a good return.
- 14.6 The alternative method of sale by auction would result in a concentrated marketing period followed by an instant sale provided a reserve price is reached. This method has the advantage of expediting the process, ie offering a quicker sale to a wider market and may suit this type of property. This method could lead to increased value being obtained for the property.
- 14.7 The property comprises a 3 level end of terrace house with basement and large rear garden, located just off Whitechapel Road. It is a Grade II listed

building built around the 1880s and is in poor condition. It is held in the Housing Revenue Account.

- 14.8 The adjoining properties are not Council owned but held by seemingly unrelated individuals therefore there is limited redevelopment/amalgamation potential and as such any refurbishment or redevelopment would need to be in isolation.
- 14.9 The property was previously occupied until about 2015 when it was repossessed and boarded up.
- 14.10 In 2014 a refurbishment estimate was commissioned which indicated the cost to repair the building would be in excess of £150,000 including replacing the windows. More recent estimates indicate these costs to be around £300,000 which includes costs to convert into flats.
- 14.11 A valuation was recently undertaken by Copping Joyce, the Council's independent valuation consultants on 12th October 2018. A copy of the report has been appended to this report.
- 14.12 Consultation with the Strategic Housing team indicated that this property is not suitable for housing requirements given the cost to refurbish, the ongoing maintenance obligations of a Grade II listed building. The return on spending the proceeds of a disposal outweighs the benefit of spending the costs to refurbish and convert before renting the property out (refer to s.2 above).
- 14.13 The property forms a wasting asset, though as it is a residential building it is at less of a risk of being squatted due to the legislation making squatting of a residential property illegal. A concern is the poor state of repair and the potentially increasing costs to remedy any structural problems as the building continues to deteriorate due to a lack of maintenance and necessary remedial works.

15. EQUALITIES IMPLICATIONS

- 15.1 The public sector equality duty under section 149 Equality Act 2010 arises where the Council exercises its functions. The Council proposes to use the capital receipt generated by the sale for priority projects. Such schemes primarily benefit persons who are the intended beneficiaries of the equality duty.

16. OTHER STATUTORY IMPLICATIONS

- 16.1 There are no statutory implications for this matter.

17. COMMENTS OF THE CHIEF FINANCE OFFICER

- 17.1 This report seeks the agreement of the Mayor in Cabinet to declare the property at 34 Mount Terrace as being surplus to requirements and to agree to its disposal on a 199 year lease. It is proposed to market the property for sale by private treaty as it is considered that this method will secure a higher sale price than the alternative option of sale by auction (see paragraphs 14.5 and 14.6 of this report).
- 17.2 The property is held under Housing Revenue Account ('HRA') powers for use as tenanted accommodation but has been empty since 2015 and requires significant capital investment estimated to be in the region of £300,000 in order to bring it up to a lettable standard. As outlined in section 13 of this report, a number of different refurbishment and rental options have been considered at an overall summary level, but due to the high refurbishment costs, it is considered better value for the Council to avoid the necessary capital renovation costs and to dispose of the property in order to generate a capital receipt which can be used to finance capital priorities in accordance with both the Capital Strategy and the Medium Term Financial Strategy. Although the Council is currently undertaking large programmes to acquire properties within both the HRA and the General Fund for use as temporary accommodation, the costs associated with the refurbishment of this property makes disposal and reinvestment of the receipt the preferred option. This is further supported by the view that disposal of the property could provide the resources to finance the acquisition of two dwellings (a one bedroom unit and a two bedroom unit) as set out in paragraph 13.4.
- 17.3 As the property is held under HRA powers, any receipts from the disposal will be 100% usable within the HRA as these receipts are no longer subject to the pooling regime. The receipts are also fully usable within the General Fund if applied for the provision of affordable housing or to fund regeneration projects.
- 17.4 Disposal will mean that the Council will avoid any on-going revenue costs necessary to keep the empty property secure. Any expenditure that the Council incurs in marketing the site will be met from the 4% 'top-slice' that can be offset from capital receipts to cover the cost of sale. This will include the cost of the valuation report that was commissioned from Copping Joyce.
- 17.5 In order that the Council can make best use of the capital receipt, it is essential that any necessary legal approvals for the disposal of an HRA dwelling are obtained in advance of selling the property.

18. COMMENTS OF LEGAL SERVICES

- 18.1 The report seeks the decision to declare the Council's land identified as surplus to requirements and to dispose of the property by way of private treaty.

- 18.2 The property is held in the HRA and the disposal is therefore governed by the Housing Act 1985. Section 32 of the Act provides that a local authority may not dispose of any housing land held by them without the consent of the Secretary of State. In order to facilitate disposals, the Secretary of State has issued a series of general consents (the General Housing Consent 2013) which provide the required consent in certain circumstances.
- 18.3 Paragraph A3.1.1 of the General Housing Consent provides the Council with the consent to dispose of property for a consideration equal to its market value provided the exemptions listed under paragraph 3.1.2 do not apply, As none of these exemptions apply this proposed disposal is therefore permitted by legislation.

Linked Reports, Appendices and Background Documents

Linked Report

- NONE.

Appendices

- Site plan- Appendix A
- EXEMPT INFORMATION: Valuation report- Appendix B

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- NONE for either report

Officer contact details for documents:

N/A