

# MAYOR'S EXECUTIVE DECISION MAKING

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Thursday, 7 July 2016

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Mayor's Decision Log No. 131

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1. **LEASING OF UNITS 9-11, 47-77 BEN JOHNSON ROAD, LONDON E1  
4SA (Pages 1 - 18)**

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact: Matthew Mannion, Committee Manager, Democratic Services

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# Agenda Item 1

<b>Individual Mayoral Decision</b> Decision Log No: <u>131</u>	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Aman Dalvi, Corporate Director, Development & Renewal	<b>Classification:</b> Partially Exempt
<b>Leasing of Units 9-11, 47-77 Ben Jonson Road, London E1 4SA</b>	

<b>Is this a Key Decision?</b>	No
<b>Decision Notice Publication Date:</b>	N/A
<b>General Exception or Urgency Notice published?</b>	Not required
<b>Restrictions:</b>	Restricted report under paragraph 3 (financial affairs)
<b>Reason for seeking an Individual Mayoral Decision:</b>	Operational matter (lettings would normally be entered into under delegated authority but in this case, the cumulative value of the lease is in excess of the £250,000 delegated limit)

## EXECUTIVE SUMMARY

As part of the marketing policy of the new 16 vacant retail units in the Ocean Estate an anchor tenant was sought in the form of a supermarket. Marketing by our retained agents, Strettons, to various mainstream supermarkets has secured an attractive offer from a national chain. This offer involves the leasing of three of the 16 units for a 15-year term.

Full details of the decision sought, including setting out the reasons for the recommendations and/or all the options put forward; other options considered; background information; the comments of the Chief Finance Officer; the concurrent report of the Head of Legal Services; implications for One Tower Hamlets; Risk Assessment; Background Documents; and **other relevant matters are set out in the attached report.**

## DECISION

The Mayor in Cabinet is recommended to:

1. Agree that the council may enter into a 15-year lease for Units 9-11, 47-77 Ben Jonson Road, London E1 4SA, as shown on the plan attached at appendix 1, to the tenant identified in the exempt report;
2. Agree that, following a rent free period of 6 months, the initial rent for the lease should be that amount set out in the exempt report with 5-yearly upward only rent reviews;

3. Authorise the Corporate Director, Development & Renewal, after consultation with the Service Head, Legal Service, to agree the final terms and conditions of the agreement; and
4. Authorise the Service Head, Legal Services, to execute all necessary documents to implement this decision.

**APPROVALS**

**1. (If applicable) Corporate Director proposing the decision or his/her deputy**

I approve the attached report and proposed decision above for submission to the Mayor.

Signed [Signature] Date 23/6/16

**2. Chief Finance Officer or his/her deputy**

I have been consulted on the content of the attached report which includes my comments.

Signed [Signature] Date 28/06/16

**3. Monitoring Officer or his/her deputy**

I have been consulted on the content of the attached report which includes my comments.

~~(For Key Decision only — delete as applicable)~~

~~I confirm that this decision:-~~

~~(a) has been published in advance on the Council's Forward Plan OR~~


~~(b) is urgent and subject to the 'General Exception' or 'Special Urgency' provision at paragraph 18 or 19 respectively of the Access to Information Procedure Rules.~~

Signed [Signature] Date 01/07/16

**4. Mayor**

I agree the decision proposed in paragraph above for the reasons set out in section 1 in the attached report. *Subject of come to appropriate Commissioner approved*

Signed [Signature] Date 5/7/16

<b>Individual Mayoral Decision</b>  22 June 2016	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Corporate Director, Development & Renewal	<b>Classification:</b> Unrestricted
<b>Leasing of Units 9-11, 47-77 Ben Jonson Road, London E1 4SA</b>	

<b>Lead Member</b>	Councillor David Edgar, Cabinet Member for Resources
<b>Originating Officer(s)</b>	Richard Chilcott, Head of Asset Management.
<b>Wards affected</b>	Stepney Green
<b>Key Decision?</b>	No
<b>Community Plan Theme</b>	One Tower Hamlets

### **Executive Summary**

As part of the marketing policy of the new 16 vacant retail units in the Ocean Estate an anchor tenant was sought in the form of a supermarket. Marketing by our retained agents, Strettons, to various mainstream supermarkets has secured an attractive offer from a national chain. This offer involves the leasing of three of the 16 units for a 15-year term.

The background to this is set out below although it should be noted that there is also a linked exempt report with the same title and which sets out certain confidential information that could not be included in an unrestricted report.

### **Recommendations:**

The Mayor in Cabinet is recommended to:

1. Agree that the council may enter into a 15-year lease for Units 9-11, 47-77 Ben Jonson Road, London E1 4SA, as shown on the plan attached at appendix 1, to the tenant identified in the exempt report;
2. Agree that, following a rent free period of 6 months, the initial rent for the lease should be that amount set out in the exempt report with 5-yearly upward only rent reviews;
3. Authorise the Corporate Director, Development & Renewal, after consultation with the Service Head, Legal Service, to agree the final terms and conditions of the agreement; and
4. Authorise the Service Head, Legal Services, to execute all necessary documents to implement this decision.

## **1. REASONS FOR THE DECISIONS**

- 1.1 To secure a mainstream supermarket to anchor the new retail parade to attract shoppers with both new and returning retailers to this location.
- 1.2 To provide an improved retail offer and to be a focus of vibrant business activity for the community.
- 1.3 To maintain and improve Ben Jonson Road as a popular and active local retail destination suitable for the twenty first century with diverse traders.
- 1.4 The presence of a supermarket will mitigate the risk of a downward spiral of this local centre as it will provide a critical mass for successful trading.
- 1.5 To provide and enhance business rates from the parade.
- 1.6 To secure and enhance long term rental income from the Parade, for the benefit of Ocean Regeneration Trust and in turn enhance capital values.

## **2. ALTERNATIVE OPTIONS**

- 2.1 The council could leave the shop units vacant. However, this may attract anti-social behaviour and become a burden to the community. The lack of an active frontage can also depress economic activity in the parade.
- 2.2 The council could lease the units individually to local covenants. However, this would not provide a significant anchor tenant, who would provide a critical mass to the parade.

## **3. DETAILS OF REPORT**

- 3.1 Background
- 3.2 The 16 shop units on the north side of Ben Jonson Road were created as part of the Ocean Regeneration Scheme, which commenced in 2010 and provided approximately 800 residential units through Bellway Homes. These homes are managed by East Thames Housing Association. The shops were always intended to sustain the locality and to generate market rental income to be used to support the Ocean Regeneration Trust.
- 3.3 The freehold of the scheme is retained by the Council but development was undertaken by Bellway Homes under a 250-year lease, who in turn granted a 246-year lease at a peppercorn to the council of the retail units.
- 3.4 Returning tenants
- 3.5 As part of the decant process, and to encourage early vacation, eight occupying tenants were offered options to return on completion of the

development in addition to compensation and temporary shop leases elsewhere. The offer was to be of a unit of a similar size, at a market rent and terms, with a number of conditions on use and trading style to accord to retail policy, planning and alienation.

- 3.6 The 16 shop units are ready to lease and Strettons have formulated the rental and market terms for leasing the units to the eight former tenants and placing the remainder on the open market for leasing.
- 3.7 Non-negotiable Heads of Terms have now been dispatched to the eight former tenants with instructions that they must be accepted within three months of the offer.
- 3.8 Marketing
- 3.9 Local research, which informed a retail strategy for the parade, indicated that one of the preferred choices of traders was a local supermarket of circa 300m<sup>2</sup> and the agents have undertaken specific targeting of the principle operators for this provision.
- 3.10 Three national supermarket chains were interested and one of them has proposed terms that are an improvement on the council's proposed Heads of Terms. The proposed Heads of Terms relate to three of the 16 units, to be leased for a 15-year term. The details of this proposal are set out in the accompanying exempt report.
- 3.11 Marketing of the remaining vacant units will shortly proceed now that the former tenants' offers have been dispatched.

#### **4. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 4.1 This report seeks the agreement of the Commissioners to the granting of a fifteen year lease on three retail units (numbers 9 to 11) within the blocks at 47-77 Ben Jonson Road. These units have been developed by Bellway as part of the Ocean Estate regeneration scheme. Bellway (as freeholders) has granted a long lease for the units to the council which in turn is now leasing the units itself to retailers. Following the Government Directions of 17<sup>th</sup> December 2014, the Commissioners need to approve the granting of any new leases.
- 4.2 The proposed lease terms have been negotiated following a marketing campaign undertaken by an external property company. Further details are provided in the associated exempt report. If agreed, the lease will generate rental income credited to the General Fund, with these receipts being earmarked towards the funding of the Ocean Regeneration Trust (ORT) as outlined below.
- 4.3 The ORT was created in May 2008 to own assets and receive income generated from the Ocean regeneration scheme to use for the benefit of the

local community. This included the income for the retail units on Ben Jonson Road. In accordance with the Government Directions, the onward transfer of these receipts should be treated as grant payments and as such will require separate Commissioner approval as part of the usual grant awarding processes.

## 5. LEGAL COMMENTS

- 5.1 This report is in relation to disposal of land and therefore having regard to the Directions issued by the Minister on 17th December 2014 and which requires the Council, until 31<sup>st</sup> March 2017, to “..... *obtain the prior written agreement of the Commissioners **before** [emphasis added] entering into any commitment to dispose of, or otherwise transfer to third parties, any real property other than existing single dwellings for the purposes of residential occupation*” a report will be required to go to the Commissioners for written agreement.
- 5.2 Despite the fact that written agreement is required from the Commissioners, approval to the sale is also required from the Mayor as the rent is greater than £25,000 per annum and therefore exceeds the delegated authority for the Corporate Director to authorise.
- 5.3 Whenever a local authority disposes of land held by it for housing purposes it has to have regard to section 32 of the Housing Act 1985. Section 32 states that a local authority may not dispose of any land held by them without the consent of the Secretary of State. In order to facilitate the disposal of land held for housing purposes the Secretary of State has issued a series of general consents, which permit the disposal of land held for housing purposes without the need to obtain express consent. The consents are collectively known as The General Housing Consents 2013.
- 5.4 In accordance with paragraph A2.2 of the General Housing Consents a disposal includes the grant of a lease of any duration. Paragraph A3.1.1 of the General Housing Consents provides that a local authority may dispose of land for a consideration equal to its market value.
- 5.5 The Council's procedure for disposals and lettings, adopted at Cabinet on 8<sup>th</sup> April 2015, specify that disposals may be by one of the following means: (a) informal tender; (b) formal tender; (c) auction; and (d) sale by negotiation. The procedures provide that the Service Head, Corporate Property and Capital Delivery will determine the most appropriate method of disposal, based on the type and location of the property and the prevailing property market and subject to the Council meeting its legal requirements. In this case, the land was initially marketed and the disposal will be by way of negotiation.
- 5.6 The Council is obliged as a best value authority under section 3 of the Local Government Act 1999 to “make arrangements to secure continuous improvement in the way in which its functions are exercised having regard to a combination of economy, efficiency and effectiveness’. It is considered that



obtaining best consideration by market value contributes towards this duty and the fulfilment of this duty is further addressed in paragraph 7 below.

- 5.7 The Council is required when exercising its functions to comply with the duty set out in section 149 of the Equality Act 2010, namely to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity between those who share a protected characteristic and those who do not, and foster good relations between those who share a protected characteristic and those who do not. There are no direct equality implications arising from the proposed transaction.

## **6. ONE TOWER HAMLETS CONSIDERATIONS**

- 6.1 The proposals in this report will help support the local economy and a healthier and more active high street. This will have the effect of providing more opportunities for economic activity amongst local residents.
- 6.2 In addition, the income from the shops will contribute towards the local community.

## **7. BEST VALUE (BV) IMPLICATIONS**

- 7.1 This letting will provide real rental evidence to secure future rental levels both to the new retail parade and the existing units. This demonstrates best value for the council in the leasing.

## **8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 8.1 The leasing of the property to a national retailer ensures that the local population has full access to retailing facilities close to home reducing travel time and distance to other competing centres.

## **9. RISK MANAGEMENT IMPLICATIONS**

- 9.1 By the leasing of the retail parade to a balanced mix of retail providers this will create a robust nucleus of activity to weather future community or macro-economic influences.

## **10. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 10.1 The enhancement of this local retail centre should provide an improved quality of the neighbourhood and establish identity and a feeling of ownership of the community by the occupiers. This in turn should enhance neighbourhood interest and pride in the community giving restraint to anti-social behaviour.

## **11. SAFEGUARDING IMPLICATIONS**

11.1 There are no immediate safeguarding implications arising from the proposals.

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### **Linked Reports, Appendices and Background Documents**

#### **Linked Report**

- Leasing of Units 9-11, 47-77 Ben Jonson Road, London E1 4SA (Exempt report).

#### **Appendices**

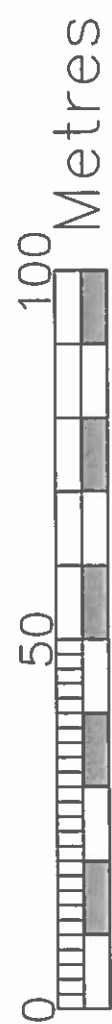
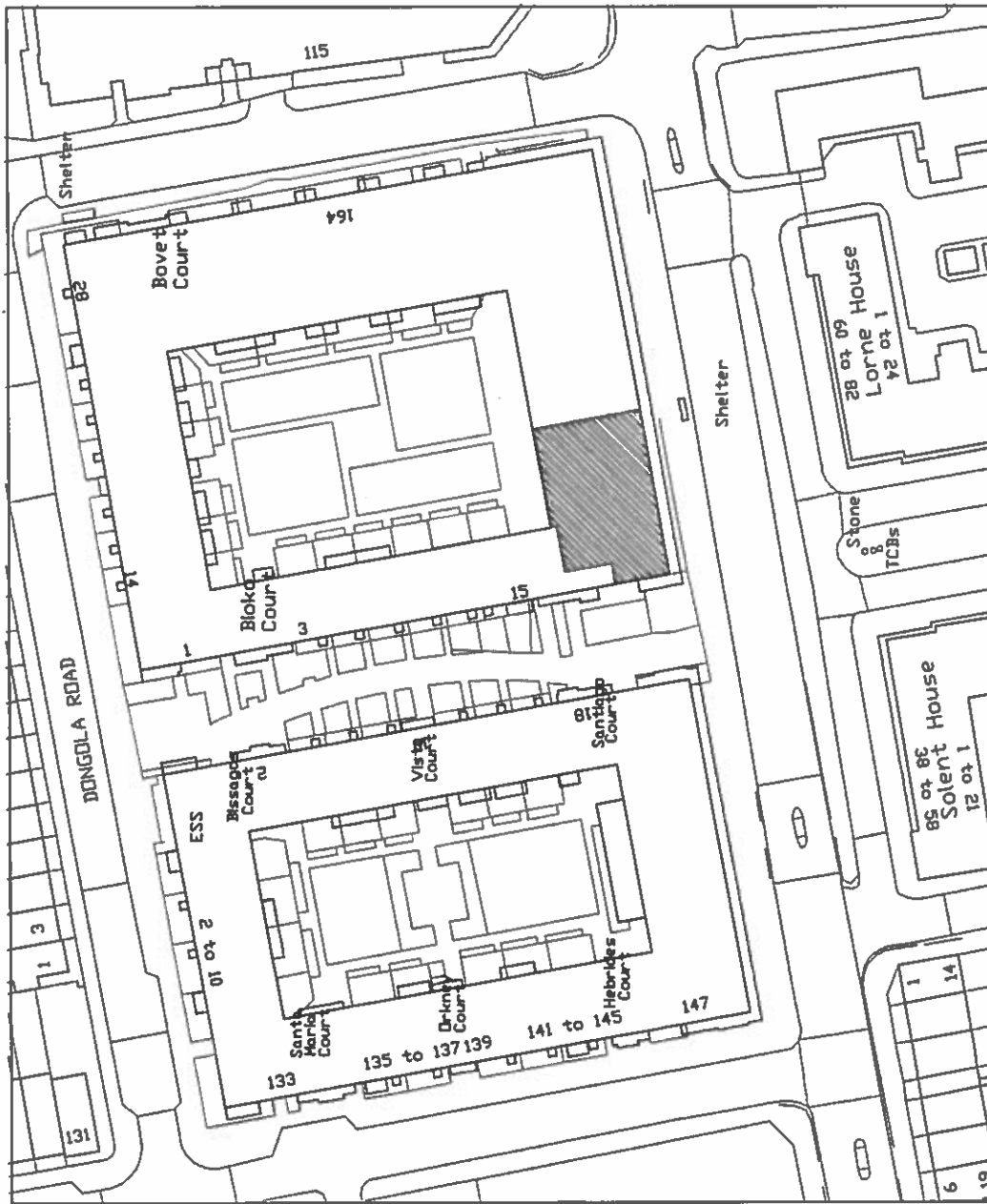
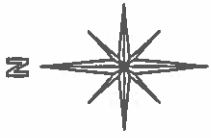
- Appendix 1, Location and lease plans.

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

- None.

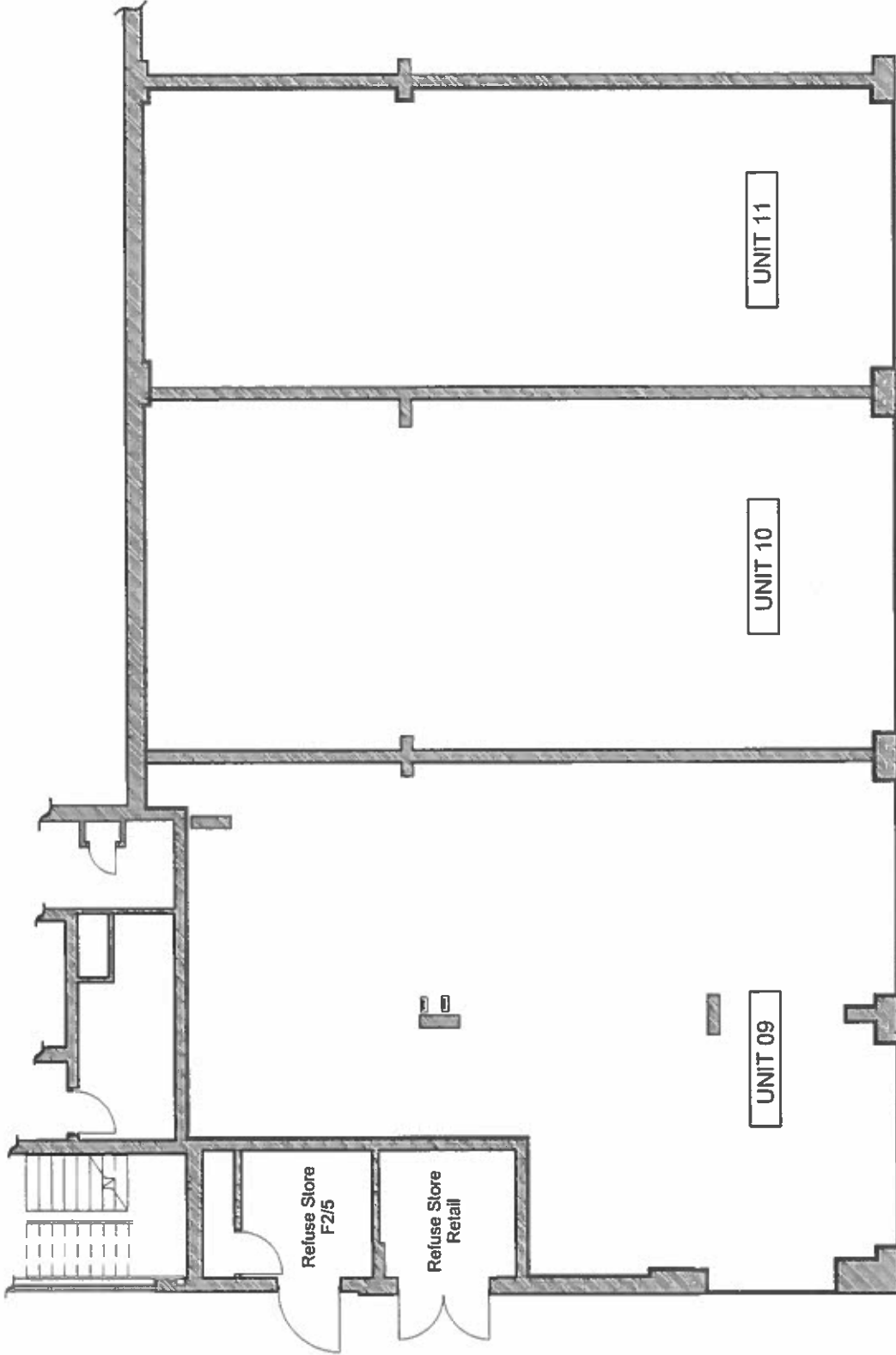
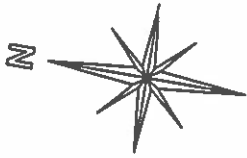
#### **Officer contact details for documents:**

Ann Sutcliffe, Service Head, Corporate Property & Capital Delivery, 020 7364 4077



DATE: 14-6-2016	DRAWN BY: GV
ORIGINAL PAPER SIZE A4	SCALE: 1:1250
LOCATION PLAN UNITS 9,10 & 11 47-77 BEN JONSON RD LONDON E1 4SA	DRAWING NUMBER 11683
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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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