

## **Report to the Cabinet**

**Report reference:** C-016-2009/10

**Date of meeting:** 13 July 2009



**Epping Forest  
District Council**

**Portfolio:** The Leader's Portfolio

**Subject:** 1 Cartersfield Road, Waltham Abbey

**Responsible Officer:** Chris Pasterfield (01992 564124).

**Democratic Services Officer:** Gary Woodhall (01992 564470).

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### **Recommendations/Decisions Required:**

- (1) To decide whether to grant Landlord's consent for change of use from light industrial to retail to enable the development of a Lidl supermarket at 1 Cartersfield Road in exchange for an increase in annual rent from £14,000 to £31,500 per annum and in addition the lessees making a premium payment to the Council as recommended by the Council's agents Bidwells.
- (2) To decide whether to waive the normal call in arrangements in view of time constraints relating to the contract between the lessee and Lidl.
- (3) That authority be delegated to the Director of Corporate Support Services to agree any potential revised wording of the lease following negotiations with the interested parties.

### **Executive Summary:**

This report sets out the background history in relation to this site and the terms negotiated and recommended by Bidwells, the Council's agents, for the granting of Landlord's consent for a change of use.

### **Reasons for Proposed Decision:**

To enable the site to undergo redevelopment to modern standards which will enhance the value of the Council's asset and achieve a substantial increase in the annual ground rent as well as a one off capital payment to the Council.

### **Other Options for Action:**

To not grant Landlord's consent. This may result in the site not being redeveloped to modern standards and a local employment opportunity missed.

To seek to negotiate some other premium. This risks negotiations failing and would involve rejecting a proposal our external experts recommend as a good deal.

### **Report:**

1. The original lease is for 125 years from 29 September 1987 with a review to 10% of

the rack rent for the site which includes land and buildings. The original lease was sold for £750,000 to the current lessees on 31 January 1995.

2. On 2 December 2008 the leaseholder obtained planning approval to redevelop the site with a Lidl supermarket being located at the front of the site with 5 industrial units to the rear. It is a condition of planning approval that the 5 industrial units be constructed and it is recognised that these will have a negative development value as costs will exceed the capital value of the developed site and this has been reflected in the terms negotiated.

3. It is the Council's position that the leaseholder requires the Council's permission for change of use to retail for the Lidl store and as such a premium can be charged.

4. Negotiations have been conducted by the Council's appointed agents, Bidwells, who are recommending the following proposal to the Council:

- (i) an increase, from approximately £16,800 to £31,500 per annum in the ground rent received for the site. (The current rent is £14,000 per annum. The figure of £16,800 is the estimated rent after the outstanding rent review has been concluded).
- (ii) the Council's freehold interest will increase in value from approximately £251,500 to £595,500 (an increase of £344,000). This is based upon the ground rent of 10% of the rack rental value of the Lidl store and 5 industrial units.
- (iii) a premium of £175,000 be charged for the grant of Landlord's consent to the change of use;
- (iv) the quality of the Council's freehold interest will have been significantly enhanced as the majority of the income will be based upon the Lidl store which is a much stronger covenant than the existing leaseholder.

5. Negotiations have taken some months because of the complication of differing opinions on a legal issue associated with the granting of consent. That issue had to be contested by the Council. The leaseholder initially offered a small premium, later reduced to a nil premium until the Council sought Counsel's opinion on the legal argument. It is believed that the strength of that opinion has been a factor in bringing the leaseholder back to the negotiating table.

6. In negotiations on values the agent for the lessees indicated that his client would not be prepared to pay a premium figure of more than £125,000 for the grant of Landlord's consent. Despite this and having explored the differences in the two sides starting points on values the Council's agent came to a professional view that a premium figure of £200,000 would be reasonable to put to the respective clients. The lessees' agent did not necessarily agree with this figure but agreed to put it to his clients.

7. Whilst officers were prepared to recommend acceptance of the recommendation of the Council's agents, the lessees were adamant they would not agree to any figure above £125,000. In an effort to break the stalemate an agreement has been brokered between the lessees and Lidl to contribute £25,000 each towards the difference of £75,000, if the Council is prepared to accept a premium of £175,000. In agreeing to this proposal Lidl have indicated that they want a firm decision by 17 July 2009, whereas previously their timescale was a decision being reached by 9 August the date on which a provisional agreement between Lidl and the lessees is due to expire.

8. This has been a complicated valuation involving several factors and large values and this means that the figures are very sensitive to minor alterations in the way values are

calculated which can have a noticeable effect on the end result.

9. The total benefit to the Council from the uplift in value of the freehold interest, and the premium of £175,000 is a net value of £519,000.

10. Following these further rounds of negotiations Bidwells believe that despite their earlier view this is now the best deal that the Council are likely to receive and that if it is not accepted there is a real risk of the whole deal falling through.

11. An agreement will also allow the Council to update the legal documentation to clarify the future position and to enable this to happen without undue delay it is suggested that delegated authority be given to the Director of Corporate Support Services to agree the necessary changes.

12. Because of the time constraints involved, Cabinet is asked to consider waiving the normal call in arrangements for decisions that it makes.

**Resource Implications:**

Finance

An increase in the annual ground rent from £16,800 to £31,500.

An enhanced asset value from approximately £251,500 to £595,500 (an increase of £344,000).

A capital payment of £175,000 to the Council in 2009/10.

Land

Redevelopment of a Council owned site to a modern standard.

**Legal and Governance Implications:**

Use and management of Assets in accordance with the Councils strategy as set out in the Asset Management Plan 2007-2012.

**Safer, Cleaner and Greener Implications:**

Redevelopment of an old building with new buildings to modern standards meeting current regulations.

**Consultation Undertaken:**

External agents acting on behalf of the Council.

**Background Papers:**

File papers held in Estates and Valuation section.

**Impact Assessments:**

Potential loss of income if agreement not reached.  
There are no equalities issues.