

## ***Report to the Cabinet***

***Report reference: C/012/2007-08.***

***Date of meeting: 11 June 2007.***



**Epping Forest  
District Council**

**Portfolio: Finance, Performance Management and Corporate Support Services.**

**Subject: Re-letting – Shop 15, The Broadway, Loughton.**

**Officer contact for further information: Michael Shorten (01992 - 564124).**

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

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### **Recommendations:**

**(1) That the premises be let to Sprays Bakeries Limited on a lease for a term of up to 12 years for use as a bakers, on the terms reported by the Head of Legal, Administration and Estates;**

**(2) That in the event that Sprays Bakeries Limited do not complete the lease, the premises be offered, subject to the receipt of satisfactory references, to Pithers of Barkingside also for use as a bakers; and**

**(3) That Contract Standing Order C5 be waived in relation to contracts in excess of £20,000 in view of the special circumstances relating to the proposed letting.**

### **Report:**

1. Shop 15, The Broadway, Loughton was let to Messrs Bulkan & Gersch on the terms of a 12 year lease at a rental of £19,320 for use as a bakers. The tenants also rented two garage units to the rear of the premises on separate agreements.

2. At Harlow County Court on 19 February 2007, the Council were granted a Possession Order for rent arrears in the sum of £17,198 plus court costs. In accordance with the terms of that Order, the Court Bailiff secured possession on 9 May 2007.

3. The usual procedure for gaining possession and re-letting have been complicated by a Receiver acting for a company called Mothers Kitchen Limited, which is the former tenant's trading name. To realise some of the company's assets, the Receiver is seeking to sell the equipment at the premises. He has also approached the Finance, Performance Management and Corporate Support Services Portfolio Holder to introduce two prospective tenants - Sprays Bakeries Limited and Pithers of Barkingside - to continue the bakery business and to offer a premium payment to the Council to offset part of the former tenant's rent arrears. The Portfolio Holder has expressed a willingness to co-operate with the Receiver to achieve a re-letting of the premises for continued use as a bakers with minimal delay and to secure a premium payment to offset the former tenant's rent arrears.

4. Meetings with the two prospective tenants and the Receiver have produced the following offers:

	<b>Pithers</b>	<b>Sprays Bakeries Limited</b>
<b>Rent per annum</b>	£20,300	£20,300
<b>Premium payable on completion of the lease</b>	£6,000	£11,000
<b>Rent free period</b>	None	2 months
<b>Lease</b>	12 years, 4 year rent reviews	12 years, 4 year rent reviews
<b>User</b>	Retail bread and cakes and wholesale bakery to rear	Retail bread, cakes, sausage rolls, pies, pasties, sandwiches, filled rolls and tea/coffee area
<b>Garages</b>	Not required	Additional income of £1,028 pa + VAT (£1,290 + VAT from 29 September 2007)
<b>Legal fees payable</b>	£444	£444

5. The proposed rental of £20,300 per annum is consistent with the tone of rental values at The Broadway parade established through recent open market lettings and negotiated rent reviews and lease renewals. Whilst both prospective tenants have submitted the same rental offer, Sprays Bakeries Limited are willing to pay a higher premium to secure the premises. In support of their application, they draw attention to their good record as a longstanding tenant of a Council-owned shop at Borders Lane, Loughton. References in support of Pithers' application have not been sought at this stage.

6. The proposed letting by way of a restricted invitation to submit rental offers prior to formal recovery of possession is a departure from the Council's usual practice of offering premises on the open market by the invitation of sealed rental offers for a new lease. Contract Standing Orders require that the disposal of any interest in land and property having a contract value in excess of £20,000 be subject to market testing. (Contract Standing Order C5 refers).

7. The Local Government Act 1972: General Disposal Consent (England) 2003 provides public authorities with greater flexibility in relation to the management and disposal of their land and property assets. The terms of the Consent mean that specific consent from the Secretary of State is not required for the disposal of any interest in land or property which the Authority considers will help it to secure the promotion or improvement of the economic, social or environmental wellbeing of its area.

8. Having regard to this legislation, the Portfolio Holder has expressed a preference for proceeding on the restricted invitation basis on this occasion to secure a re-letting for continued use as a bakers with minimal delay, possible re-employment of the former tenant's staff and a premium payable towards the rent arrears. To proceed on this basis, Cabinet approval is required to waive Standing Order C5 relating to contracts in excess of £20,000.

9. Instructions, pending final approval, have been issued to Legal Services to prepare a new lease effective from 10 May 2007, in accordance with the Portfolio Holder's earlier instructions.

10. The Council has also received an unsolicited approach from Property Consultants acting on behalf of another bakery firm with some 50 outlets in the region. They request that the Council favourably considers their request to be given an opportunity to submit a rental offer for consideration in the usual way.

**Statement in Support of Recommended Action:**

11. Co-operation with the receiver will achieve a re-letting of the premises for continued use as a baker's shop with minimal delay and will secure a premium payment to offset the former tenant's arrears. As this involves a contract over £20,000, a request to waive the relevant Standing Order and special circumstances apply.

**Other Options for Action:**

12. To market the premises in accordance with an open market tendering procedure providing interested parties with an opportunity to submit rental offers for the Council's consideration.

**Consultations Undertaken:**

13. Private treaty negotiations between the Receiver acting for the former tenants, the Portfolio Holder and two prospective tenants.

**Resource Implications:**

**Budget Provision:** Rental income £20,300 per annum from the grant of a 12 year lease, subject to 4 year rent reviews. £11,000 payment towards the former tenant's rent arrears.

**Personnel:** Valuation and Estate Management Service.

**Land:** Shop 15, The Broadway, Loughton.

**Council Plan 2006-10/BVPP Ref:** FPM1 – Maximise rental income.

**Relevant Statutory Powers:** Section 123 Local Government Act 1972 – Best consideration for land and property assets and Local Government Act 1972: General Disposal Consent (England) 2003.

**Background papers:** Property File EV/264.D.

**Environmental/Human Rights Act/Crime and Disorder Act:** N/A.

**Key Decision Reference (if required):** N/A.