

28 July 2021

Agenda Item: 6

REPORT OF THE SERVICE DIRECTOR, INVESTMENT AND GROWTH

LEASE EXTENSION OF SITES AT BRUNEL DRIVE, NEWARK

Purpose of the Report

1. This report outlines current circumstances with leases the Council holds at Brunel Drive, Newark and seeks approval to a variation of the leases for an extension of term for 10 years and a clarification of the rent review clauses.

Information

2. The Council hold two separate leases for Plots 4 & 5 Brunel Drive which house the recycling centre and waste transfer facilities. The leases commenced in 2012 and 2010 and are both due to end in 2033. The sites are both sublet by the Council at peppercorn annual rent to Veolia who operate the sites under the PFI waste contract. The sub leases run until 2033.
3. The existing annual rents payable by the Council for the leases are £19,017 for plot 4 and £57,750 for plot 5. The rents were reviewed in 2015, for both sites, and under the terms of both leases are to be reviewed every 5 years thereafter.
4. The Council has not yet settled the 2020 rent review for these sites. The rent review clause in both leases provides for the rent to be reviewed either to Market Value or RPI whichever gives the higher rent. If RPI is chosen, as in the case of the 2020 reviews by the landlord, the leases stipulate that the rent is calculated from the lease commencement date each time. In a usual RPI clause the rent would be calculated from the date of the previous rent review to the current rent review in order to keep in line with inflation.
5. The impact of the clause structure is therefore detrimental to the Council and at each subsequent rent review the financial impact will be more marked. The landlord has been approached to see if the clause can be renegotiated and has confirmed this would need to be subject to the lease term being extended.
6. Negotiations have therefore been entered into with the landlord to seek to vary the rent review clauses and the parties have agreed to vary both leases to:
 - Amend the rent review clauses to provide that the RPI calculation is based on the change in RPI since the previous review date.
 - Extend the lease durations by 10 years.
 - Provide for rent reviews on the first day and at the five-year anniversary of the lease extensions.
 - Other lease terms are to remain unchanged.

7. If approved, then the 2020 rent reviews will be agreed based on the amended rent review clause at £21,567 per annum for plot 4 and £65,495 per annum for plot 5. These figures would be £22,656 and £75,571 respectively on the existing basis.
8. It is considered that lease extensions to 2043 is not detrimental to the Council's interests as we have a pre agreed option to extend the existing waste contract by 5 years, the waste services provided from the sites in Newark will be required well beyond 2033, and the Council has already invested considerable funding into the sites. By agreeing to an extended lease the Council will be accepting rent liabilities for a further 10 years at a rent reflecting inflation which could be burdensome should the Council not have need of the site until 2043. Projections with estimated RPI figures shows that the total rent for the 2 sites at rent review in 2033 could be in the region of £150,000 pa.

Other Options Considered

9. The Council could choose to continue to occupy the sites under the leases as currently written for the remaining 12 years of the lease but would be paying punitive rent from the review in 2020 through to the end of the leases which has been estimated at totalling £420,000 in additional rental above what the proposed new review clause would provide for.

Reason for Recommendation

10. To secure Council interests in these important sites for service delivery for an extended period and to ensure that the rent payable reflects increases in inflation.

Statutory and Policy Implications

11. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

RECOMMENDATION

- 1) It is recommended that the Council's two existing leases at plots 4 and 5 Brunel Drive be varied as outlined in the report.

Councillor Keith Girling
Chair, Economic Development & Asset Management Committee

For any enquiries about this report please contact: Neil Gamble, Group Manager, Property Asset Management Tel: 0115 9773045

Constitutional Comments (EP 28/06/21)

12. The recommendation falls within the remit of the Economic Development and Asset Management Committee by virtue of its terms of reference.

Financial Comments [RWK 01/07/2021]

13. The report informs committee of the increase in the annual lease payments for plots 4 and 5 Brunel Drive from £19,017 to £21,567 and from £57,750 to £65,495 respectively, a total increase of £10,295 per annum. This additional cost will need to be met from within the existing revenue budget of the committee.

Background Papers and Published Documents

- None.

Electoral Division(s) and Member(s) Affected

- Electoral Division(s): Collingham
- Member(s): Councillor Maureen Dobson

File ref.: NG/SB/07586, 07560

SP: 3849

Properties affected: 07586 - Newark Waste Transfer Station (Plot 4 Brunel Drive), 07560 - Newark Household Waste Recycling Centre - Snowman House