

PART ONE - PUBLIC

Decision Maker: **EXECUTIVE**

Date: **10th February 2021**

Decision Type: Non-Urgent Executive Key

Title: **BLLENHEIM SHOPPING CENTRE – FREEHOLD DISPOSAL**

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Chief Officer: Director of Housing, Planning, Property and Regeneration

Ward: Penge and Cator

1. Reason for report

New River Retail ('NRR') have approached the Council to acquire the freehold so that they can develop above at Blenheim Shopping Centre, Penge, at which NRR own the long leasehold interest.

2. **RECOMMENDATION**

Members are asked to agree to the sale of the freehold of the Blenheim Shopping Centre to NRR on the terms detailed in the accompanying Part 2 Report of the same title, noting the contents of this report specifically to the proposed Method of Assessment.

Impact on Vulnerable Adults and Children

1. Summary of Impact: N/A
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Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Excellent Council
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Financial

1. Cost of proposal:
 2. Ongoing costs:
 3. Budget head/performance centre:
 4. Total current budget for this head:
 5. Source of funding:
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Personnel

1. Number of staff (current and additional): Not applicable
 2. If from existing staff resources, number of staff hours: Not applicable
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Legal

1. Legal Requirement: Statutory Requirement
 2. Call-in: Applicable
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Procurement

1. Summary of Procurement Implications: Not applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Not Applicable
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Ward Members were asked for views or comments on the draft versions of this report and none were received.
2. Summary of Ward Councillors comments: None

3. COMMENTARY

- 3.1 The Council own the freehold interest in Blenheim Shopping Centre, Penge. New River REIT ('NRR') hold a long leasehold interest in the site, by way of a 125 year term from 12th August 2010 at a Peppercorn rent.
- 3.2 NRR have approached the Council to acquire the freehold (or amendments to the lease to extend and allow for rights to develop above) of the Blenheim Shopping Centre, Penge, in order to allow them to undertake development on the site
- 3.3 Cushman & Wakefield ('C&W') were instructed by the Council to assess, review, report and negotiate with NRR.
- 3.4 The following is a summary of the negotiations over the past few months and the agreed assumptions which have led both parties to an agreed final sum to be offered for the freehold interest on the site. Details of the original offer were considered by Officers to be of interest to the Council but further challenged to ensure all potential benefits to the Council had been fully explored before any further action was recommended. The details of the offer are contained within the accompanying Part 2 Report of the same title.

Location & Description

- 3.5 The site is located in south east London, within the London Borough of Bromley, Penge Ward, specifically on the south side of Penge High Street. The centre is located 0.5 miles south east of both Penge East and Penge West Stations and approximately 0.5 miles north west of Kent House Station.

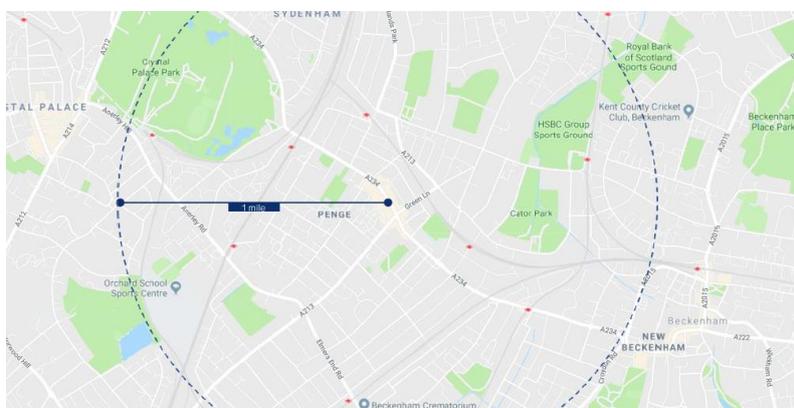
The following connections are possible:

Penge East – National Rail

- Brixton – 11 minutes
- London Victoria – 19 minutes

Penge West – London Overground

- Canada Water – 18 minutes
- London Bridge – 23 minutes



- 3.6 The site is an existing shopping centre, located on the south side of the high street, which also provides additional shops and services. A number of local schools are also situated in close proximity.

- 3.7 The property comprises a Shopping Centre site accessed via Empire Square. The current occupiers include Wilko, Iceland, Peacocks and Card Factory.
- 3.8 The site extends to 0.7 hectares (1.73 acres).
- 3.9 The surrounding area provides a mixture of uses, including retail on Penge High Street to the east, residential uses to the south/west and educational facilities provided at the Bromley Adult Education College to the southeast of the site. Nearby amenity green space is located at the Penge Recreation Ground and Royston Field to the northwest and south respectively. Crystal Palace Park is also located approximately 800 metres to the northwest. Bromley Council have recently completed improvement works to Empire Square, improving the vitality of the area.
- 3.10 The site currently accommodates 45,756 sq ft of retail space distributed amongst units spread over two floors.

Proposed re-development

- 3.11 As stated at 3.1 NRR intend to redevelop the Blenheim Centre. They have undertaken a Pre-App with the Council's Planning Team and consider that their proposals are achievable.
- 3.12 In order to assess the value that could be generated through the merging of the freehold and leasehold interests, and thereby determine the value that should be paid to the Council in return for the sale of the freehold interest, both parties have agreed upon a scheme to be used as a calculation basis. The scheme was provided by NRR at the outset of the project and the Council provided comment in the adoption of a base line scheme for assessment.
- 3.13 It must be noted that this scheme has been adopted for the calculation of value. Any scheme will be subject to Planning in the normal way. Furthermore, the negotiations undertaken have not been conditional on the outcome of any future Planning Application.
- 3.14 Whilst the NRR proposed scheme is a commercial decision for them to progress, it is considered that any scheme put forward would be a mix of retail and residential. Therefore, the Council have insisted on nomination rights and that a covenant and restriction be placed on the title to the land following completion of the disposal to ensure that a policy compliant scheme is ultimately delivered.

Proposed Method of Assessment

- 3.15 After establishing the uplift in value to the centre by the merging of the leasehold and freehold interests would be applicable almost entirely to the potential development of the upper parts, a rationale was agreed to assess the value of the development potential.
- 3.16 A baseline scheme was agreed following initial design work and planning feedback conducted by NRR (Pre-app response) and engagement with Council's Planning Department. The baseline scheme reflected a reduction in scale to the maximum massing indicated in the NRR feasibility study, reflecting comments made by the Council's Planning team. The base scheme is deemed to reflect a fair risk position on the basis on an unconditional disposal.
- 3.17 To assess development value, a residual appraisal was agreed, reflecting inputs a 'market' norm developer would make when seeking to purchase the opportunity. The appraisal did not account for any implications on the Net Operating Income of the centre that may occur during the development process. This was considered a positive for the Council as the income in construction is likely to reduce to reflect the disruption to the tenants below.

- 3.18 A residual appraisal requires the calculation of the end value of a development (in this case the cumulative value of the private and affordable apartments within the base scheme) and the deduction of all reasonable costs to deliver the development (build, professional fees, planning cost, finances, sales fees etc) and then a deduction of the developers profit margin. The 'residual' value after the deduction of all costs is the level appropriate for an incoming developer to pay.
- 3.19 As part of the process, NRR provided their assumptions first, enabling C&W to challenge elements of the appraisal where their assumptions differed from those provided. Where the NRR assumptions exceeded (in a beneficial manner) the expectations of the C&W independent review, these assumptions were adopted due to their overall positive impact on the residual sum.

Marriage Value

- 3.20 It should be noted that in the case of the subject property and exercise, the whole value is unlikely to be payable to LBB. As the sole purchaser who could also conduct a development above the centre, NRR can deliver a value not otherwise achievable for the asset. They are therefore seeking to purchase the asset without competition and in the knowledge their value is above the value of the asset if placed in the market.
- 3.21 Accepted valuation logic for such a process recommends a 50 / 50 split in the value between the two relevant interest owners, reflecting the upside in value to LBB that is not otherwise possible but also a beneficial purchase position for NRR.
- 3.22 Details of the above and the negotiations undertaken with NRR are provided in the accompanying Part 2 Report of the same title.

Alternative Options Considered

- 3.23 Following the approach by NRR to the Council with regards to purchasing our Freehold Interest, the Council considered all available options, before concluding on the recommendations as set out in this report.
- 3.24 One option is to do nothing – however, the freehold interest that the Council currently owns, generates no income (rent is set at peppercorn) and doesn't derive any other tangible benefit, as to all intents and purposes, NRR have control of the site under their long leasehold interest. Another consideration is that by doing nothing the Council makes redevelopment of the site impossible (due to the terms of the existing long leasehold interest), and thereby hinders wider objectives of the Council to support the delivery of high quality regeneration projects and meet affordable housing needs.
- 3.25 Another option that has been considered is the sale of the Council's freehold interest in the open market – however, the value of the Council's freehold interest in the open market is nominal, due to the length of the lease controlled by NRR, and the lack of income that it generates. The sale of the freehold interest to anyone other than NRR would not facilitate future development potential on the site and this would be reflected in the value that any other purchaser could attribute to the freehold interest.
- 3.24 NRR are a Special Purchaser for the site, and by definition, are able to offer Best Value to the Council as there are benefits of the acquisition that are personal to NRR.

- 3.25 The definition of a Special Purchaser under the RICS UK VPGA 17 is ‘one to whom the property, or interest in the property being valued has a particular attraction which it does not have for the market in general.’ In this instance, NRR are a Special Purchaser as their Long Leasehold interest means they are the only possible purchaser who can obtain an unencumbered Freehold Interest in the site through this acquisition and thereby benefit from the development potential that an unencumbered freehold interest will enable.
- 3.26 Part 2 of this report will set out in further detail the valuation and negotiation methodology employed in ensuring the proposal reflects Best Value, and the Council has taken suitable professional advice in reaching the recommendations in this report.

4 IMPACT ON VULNERABLE ADULTS AND CHILDREN

- 4.1 There is not considered to be an impact on Vulnerable Adults and Children as a consequence of this decision.

5 POLICY IMPLICATIONS

- 5.1 It is essential that the Council optimises the utilisation of its assets and ensures that it retains only those properties that meet the corporate and service aims and objectives.

6 FINANCIAL IMPLICATIONS

6.1

LEGAL IMPLICATIONS

- 7.1 Under section 123 of the Local Government Act 1972, a local authority has the power to dispose of land. The main caveat to this power is that the council must not do so for “a consideration less than the best that can be reasonably obtained”. This is interpreted as being the best price achievable in the open market.
- 7.2 The focus of the duty is on the outcome rather than any particular process being followed. That said, if a disposal were to be challenged, the Courts are likely to find the duty to obtain best consideration has not been complied with where:
- there is a failure to take proper advice;
 - proper advice has been obtained but there has been a failure to follow it for reasons that cannot be justified; or
 - advice has been obtained and followed, but the advice is so plainly wrong that the Council either knew or ought to have known it was acting unreasonably
- 7.3 In respect of this proposal the Council has retained the services of suitable agents to act on its behalf and consequently the risk to the Council would be mitigated in respect of 7.2 above.
- 7.4 As the interest in the Shopping Centre is held by NRR via a long lease for a term of 125 years from 12th August 2010 at a Peppercorn rent they are considered a Special Purchaser.
- 7.5 The disposal negotiations have been predicated on the assumed value of the scheme NRR are intending to develop and what the Council’s reasonable share of that development benefit against its existing interest could be provided to the Council.

7.6 As the purchaser is considered to be a Special Purchaser the Council has employed a firm of Chartered Surveyors to provide appropriate valuation advice and expertise as to the NRR development offer.

Non-Applicable Sections:	HR and Procurement
Background Documents: (Access via Contact Officer)	