

Officer Non Key Executive Decision

Relevant Chief Officer (Decision Maker):	Alan Cavill, Director of Communications and Regeneration
Relevant Cabinet Member (for consultation purposes):	Councillor Mark Smith, Cabinet Member for Business, Enterprise and Job Creation
Report Author (Officer name and title):	Andrew Ferguson, Principal Development Manager
Implementation Date of Decision:	8 September 2022

ABINGDON STREET MARKET, BLACKPOOL – Proposed Agreement for Lease and Lease

1.0 Purpose of the report:

- 1.1 To seek approval to a proposed Agreement for Lease and Lease for Abingdon Street Market on the terms set out.

2.0 Recommendation:

- 2.1 It is recommended to approve:
- i) The continued due diligence exercise and subject to the financials being satisfactory, to progress the grant of an Agreement for Lease and Lease, on terms outlined in this report.
 - ii) To proceed on the basis of the Rental Offer outlined as Option 1 (within Appendix C), subject to any appropriate amendments.
 - iii) The Head of Legal Services to prepare and complete the necessary legal documentation.

3.0 Reasons for recommendation:

- 3.1 A report was previously submitted to the Corporate Leadership Team (CLT) on 31 May 2022, for CLT to consider the appointment of a preferred bidder. The officers in attendance considered that it would be beneficial to proceed with the appointment of the preferred bidder, as set out within this report, primarily as this offer was more aligned with the Council's vision and objectives, as stated from the outset.

- 3.2a Is the recommendation contrary to a plan or strategy adopted or No

approved by the Council?

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:

After detailed consideration from two bidders who submitted their proposals and offers for the operation of the Abingdon Street Market, it was considered by CLT that the recommended offer as set out in this report, is more aligned with the Council's vision and objectives. Therefore, progress is being made with the preferred bidder / proposed lessee, to deliver this pivotal regeneration project for Blackpool Town Centre.

4.0 Council Priority:

4.1 The relevant Council Priority is: "The economy: Maximising growth and opportunity across Blackpool".

5.0 Background Information

5.1 The Council owns the freehold interest in the Abingdon Street Market Building, Blackpool, shown edged red on the plan attached at Appendix A. The building comprises: the market premises (with frontage onto both Abingdon Street and Edward Street); and the commercial shop premises on Abingdon Street (the butcher, card shop and vacant coffee shop), plus the Art Studios at 1st and 2nd Floor. The Council purchased the property on 16 October 2020, following Executive Approval on 13 July 2020 (EX36/2020). The Council had secured £3.634 million from the Government's "Getting Building Fund" (GBF), via the Lancashire Enterprise Partnership (LEP), for the purchase of the building and for the comprehensive refurbishment of the market premises, due to its obsolete and poor condition.

5.2 On securing grant funding, officers appointed a professional team to prepare designs, and a planning application was progressed for the comprehensive refurbishment of the building and facades, including the provision of food and beverage units, produce and artisan stalls, and c 250 internal seating area. With planning permission granted on 19th July 2021, strip out works commenced during summer 2021, with main contract works commencing in January 2022.

5.3 The present position on site is that the comprehensive refurbishment works continue, although behind programme due in part to the condition of the existing structure, with the

current forecast for the completion of these works (Contract A Works) scheduled for 23 September 2022. These Contract A Works consist of works to the structure, the provision of services, and enablement of the positions for the market stalls. The fit-out works for the market stalls, known as Contract B Works, have not been committed to by the Council; with the cost of these works at approx. £300,000 (based on the contractor's tender price as at February 2022, subject to possible change due to market conditions and inflation). The overall total construction (refurbishment) costs for the fully fitted market (for both the Contract A and Contract B Works) has increased beyond the GBF Funding allowance by £713,958. The reasons for this cost increase is due to an original scheme proposal and earlier cost estimate, which had provided for a significantly lower cost estimate than the final scheme (which has planning permission).

- 5.4 In view of interest from potential operators for the Market, it was concluded that a market operator should be responsible for tenant fit-out costs (i.e. the Contract B Works), in order to help off-set part of the sum of £713,958 (the cost that exceeds the GBF award).
- 5.5 Therefore, as a consequence of the continued and confirmed interest by two parties (referred to as Company A and Company B – and as named within Appendix B and C) for the operation of the Market premises, a process has been undertaken where both these parties were invited to submit their respective proposals in response to a Brief; which set out the Council's pre-requisites for the Abingdon Street Market, including the Council's "The Vision and Objectives". In addition, it was stated that the Council was expecting the Market to be open by November 2022. The Brief together with supplemental documentation, set out instructions on the Submission Requirements and Evaluation Criteria; and also that the Council would offer a lease for a period of approx. 15 years on full repairing and insuring terms, in return for an annual rental (with turnover). In addition to the annual rental, the financial offer was to also include a capital payment for all the funding of the fit out costs (Contract B Works), or other methods of funding for the works.
- 5.6 Following on from the submissions, both parties were invited to present their proposals (with clarification of issues) on 27 April 2022 to the Evaluation Panel (officers from Growth & Prosperity, Finance and Legal Services) as well as the Executive Member for Business, Enterprise and Job Creation. This culminated with the Evaluation Panel reviewing its earlier scores (undertaken prior to the presentation and clarification) and concluding that the scores should remain the same; as shown attached at Appendix B. Following this a report was submitted to the Corporate Leadership Team (CLT) on 31 May 2022 for CLT to

consider the appointment of a preferred bidder. CLT decided to proceed with Company A for the operation of the Market, primarily as their offer was more aligned with the Council's vision and objectives, as stated from the outset.

5.7 In accordance with the report submitted to CLT, the due diligence enquiries are being undertaken in respect of Company A and discussions are being progressed. Furthermore, as set out within the Brief, the legal documentation (which is being prepared) is on the basis of an Agreement for Lease, followed by a lease for a period of 15 years.

5.8 The Agreement for Lease and Lease will incorporate timescales for the completion of the works (effectively Contract B Works) by Company A; which in accordance with the Company A submission will be in two phases:

Phase 1 – Food and Beverage (F & B) Section (to be open by end November / early December 2022)

Phase 2 – Retail / Market Hall (e.g. Fruit and veg, artisan cheese, and craft ale store (to be open by November 2023.)

5.9 Company A will follow the Council's floor plan, and their submission set out their financial contribution (in addition to the rental offer – enclosed at Appendix C), to also provide £100k to open Phase 1 by November 2022; with the remaining fit-out at c. £200k, funded from income generated from Phase 1. Company A had also proposed, although subject to further discussions and a negotiation, the inclusion of the Abingdon Street cafe (vacant former Tower Coffee Shop); although after further discussions this property was removed.

5.10 The legal structure will include an Agreement for Lease and Lease, whereby: the Agreement for Lease will oblige the Council to complete the Contract A Works and allow Company A, to undertake and complete the F & B (as Phase 1). Upon satisfactory practical completion of Phase 1, a lease will be granted of the whole of the Market premises, and the lease will provide timescales to undertake and complete works to the Retail / Market Hall (Phase 2).

5.11 The documentation to be issued to Company A will therefore include:

An Agreement for Lease, which will include provision:

- To oblige the Council to complete the Contract A Works.

- To enable and allow Company A to undertake and complete the “works” to the F & B (Phase 1 – part of the “Contract B Works”). The tenant (Company AL) will not begin the Tenant’s Works until the Tenant’s plans and specifications have been approved by the Council.
- Timescales for the “works” (Tenants Works Period), with Phase 1 to open by end November / early December 2022.
- No assignment / transfer of the Agreement for Lease

5.12 Upon the satisfactory completion of the approved “works” (of Phase 1) within the timescale, the Council will grant a lease of the whole (including the areas of both Phase 1 and Phase 2), which will provide for terms including:

- Lease Term: For a period of 15 years
- To undertake and complete the Retail / Market Hall (Phase 2 – part of “Contract B Works”), within the stipulated timescale, with opening by November 2023.
- Rent: Annual Rent, plus turnover (at present, on the basis of the rental offer submitted by company A and outlined as Option 1) – enclosed at Appendix C
- Option to Break: mutual landlord and tenant break at Year 10
- No assignment / transfer of the Lease is permitted (underletting of the whole prohibited; underletting of part, subject to approval).
- Guarantor/Guarantee – to be confirmed.
- Lease (contracted outside the security of tenure and compensation provisions of the Landlord and Tenant Act 1954)

5.13 The Agreement for Lease and Lease are to be in accordance with the form as prepared by the Council’s Head of Legal Service. The Council will be entitled to end the Agreement by serving written notice on the Tenant if the Tenant or the Tenant's Guarantor breaches the terms of the Agreement. There will be a mechanism in place to deal with any default by the tenant in respect of the works.

5.14 As referred to above, at present completion of the Contract A Works, by the Council’s contractor, is scheduled for 23 September 2022. Furthermore, the LEP has recently advised that all GBF must be defrayed by 30 September 2022, as this is their cut-off date. Accordingly, on the basis that the current forecast of 23 September is achieved the money will be spent by end September. If there a further delay, then arrangements will be made to pay the contractor (Parkinson) in advance for works, to ensure the GBF is fully defrayed.

5.15 Does the information submitted include any exempt information? Yes

5.16 **List of Appendices:** (Restricted)

Appendix A – Location Plan of Building

Appendix B – Summary of Scores by Evaluation Panel (Restricted)

Appendix C – Company A Rental Offer (Restricted)

6.0 Legal considerations:

6.1 The Head of Legal Services will be instructed to prepare the legal documentation, on the basis of a lease on full repairing and insuring terms (the responsibility of the Tenant), and drafted to provide for any tenant works and timescales for delivery; as set out within this report. The documentation issued by the Council (and specifically Submission Requirements) specified that the leasehold interest being offered was for a term of c. 15 years on full repairing and insuring terms, and as set out within this report.

7.0 Human Resources considerations:

7.1 There are no human resource implications, although the recommended operator for the market is a local company, based in Blackpool.

8.0 Equalities considerations:

8.1 The market premises is located within Blackpool Town Centre, which is well served by public transport; buses, trams and trains. There is also nearby parking, including accessible parking bays.

9.0 Financial considerations:

9.1 The financial offer of Company A is as set out within Appendix C. (NB. The financial offers of both Company A and Company C had been set out within the report to CLT, as referred to above). Furthermore, other key financials include:

- (1) The current forecast for the Abingdon Street Market Project spend is beyond that of the GBF funding allowance by £713, 958.
- (2) Part of this shortfall is being funded by the Council, which have committed the sum of £363,400 (of the £713,958) i.e. within the 10% tolerance of the original Exec approval
- (3) This leaves a balance of £350,557 to fund. Contract B Works have not been committed to and the proposal as detailed in this report, will help to offset part of

this sum.

10.0 Risk Management Considerations:

10.1 The Risk Management considerations are set out as follows:

Risk	Mitigation / Reduction
1. End Value of the development	The Council's rationale to purchase the building and refurbish the market, was not for investment purposes, but rather to improve the Town Centre's facilities for residents, businesses and visitors. Nevertheless, the refurbished market will have a Market Value, which will be reviewed annually.
2. Security of the Income	As the Council owns the freehold interest of the whole of the Abingdon Street Market premises, the Council is proposing the grant of a lease to the operator (as set out within this report). The Council's tenant (the operator), would then grant licences to each trader within the market. The annual rental offer, is as set out within Appendix C.
3. Land and Property Ownership	The Abingdon Street Market Building, which includes the Market Premises, is within the portfolio of properties for the Council's newly appointed Strategic Asset Manager, Eland.

Ethical considerations:

11.0 Ethical considerations:

11.1 None

12.0 Internal/ External Consultation undertaken:

12.1 Internally CLT (as referred to above). In addition, the Evaluation Panel consisted of officers, as referred to above, and also the Executive Member for Business, Enterprise and Job Creation, attended the presentations on 27 April 2022.

In addition, Nick Johnson (external consultant and market operator), provided earlier

advice on the Market Scheme, which has planning permission.

13.0 Decision of Chief Officer

- 13.1
1. To progress the grant of an Agreement for Lease and Lease, on terms outlined in this report subject to the continued due diligence exercise and the financials being satisfactory.
 2. To proceed on the basis of the Rental Offer outlined as Option 1 (within Appendix C), subject to any appropriate amendments.
 3. The Head of Legal Services to prepare and complete the necessary legal documentation.

14.0 Reasons for the Decision of the Chief Officer

- 14.1 A report was previously submitted to the Corporate Leadership Team (CLT) on 31 May 2022, for CLT to consider the appointment of a preferred bidder. The officers in attendance considered that it would be beneficial to proceed with the appointment of the preferred bidder, as set out within this report, primarily as this offer was more aligned with the Council's vision and objectives, as stated from the outset.