

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:	4040
Author:	Pippa Hall
Department:	Development and Growth
Contact:	Pippa Hall (Job Title: Portfolio and Investment Manager, Email: pippa.hall@nottinghamcity.gov.uk, Phone: 0115 8763602)
Subject:	Revised Terms for the Assignment of Lease and Deed of Variation - Project Albert
Total Value:	Exempt (Type: Revenue)
Decision Being Taken:	To grant landlord's consent to the revised terms for the simultaneous assignment of the lease and deed of variation.
Reasons for the Decision(s)	1) The tenant has been put into administration, and accordingly is therefore unable to perform its obligations under the lease; 2) after considerable negotiation a prospective tenant has applied to take assignment of the lease subject to variations of several lease terms; 3) the prospective tenant offers a good covenant and following negotiations with the applicant acceptable terms have been agreed with respect to varying various terms under the lease terms; 4) consenting to the assignment will ensure the Council continues to receive an income from this investment property asset.
Other Options Considered:	1) Not consent to assignment (subject to the deed of variation), 2) place the property on the open market, 3) refurbish the premises for alternative use, 4) take occupation of the premises, 5) dispose the property. All of the above were rejected as the assignment subject to the variation of various lease terms ensures the Council continues to receive an income from this asset without incurring void costs that would otherwise be incurred if placed on the open market, in addition to capital expenditure if the asset were to be refurbished for an alternative use.
Background Papers:	None
Published Works:	Decision 4000 - Assignment of Lease and Deed of Variation - Project Albert

Affected Wards:	Citywide
Colleague / Councillor Interests:	None
Any Information Exempt from publication:	Yes
Exempt Information:	
Description of what is exempt:	Details of the proposed lease terms and tenant details.
	An appendix (or appendices) to this decision is exempt from publication under the following paragraph(s) of Schedule 12A of the Local Government Act 1972
3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).	The public interest in maintaining the exemption outweighs the public interest in disclosing the information because it would reveal the Council's negotiating position and could prejudice future negotiations.
Documents exempt from publication:	Exempt financial comments Project Albert 211020.docx, Exempt appendix for Assign Project Albert.pdf
Consultations:	Those not consulted are not directly affected by the decision.
Crime and Disorder Implications:	There are no crime or disorder issues affecting this decision.
Equality:	EIA not required. Reasons: An EIA is not required as the decision is not altering Council policy, services or functions.
Relates to Council Property Assets:	Yes
Decision Type:	Portfolio Holder

Subject to Call In: Yes

Call In Expiry date: 12/11/2020

Advice Sought: Legal, Finance, Property

Legal Advice: From the information provided in the report and following discussion with the author of the report the proposed transaction does not appear to raise any significant legal issues of concern. The transaction will be subject to normal property legal due diligence and the drafting, agreement and negotiation of formal legal documentation between the parties.

in addition, legally we have to be reasonable in denying consent to a proposed assignment and could be liable for any losses or costs to the tenant if we were to unreasonably withhold or delay the giving of such consent. In the absence of any reasonable grounds to refuse the assignment, this should be encouraged to proceed under our legal obligations as Landlord. Advice provided by Victoria McIntyre (Solicitor) on 22/10/2020.

Finance Advice: This advice is exempt from publication and is contained within an exempt appendix Advice provided by Mandy Bryce (Finance Analyst) on 21/10/2020.

Property Advice: This report emanates from Property Services. The covenant strength of the prospective tenant and the varied terms agreed for the new lease following the assignment of the existing are considered the best achievable given the current economic conditions and are recommended for approval. Advice provided by Richard Cox (Property Projects Manager) on 20/10/2020.

Signatures
David Mellen (Leader/ PH Regeneration, Schools, Communications)
SIGNED and Dated: 05/11/2020
Chris Henning (Corporate Director for Development and Growth)
SIGNED and Dated: 04/11/2020