

Report for: Cabinet 14th July 2020

Title: Acquisition of the Freehold interest in Munro Works, Cline Road, N11 2LZ

Report authorised by : Mark Baigent, Interim Director of Housing Regeneration and Planning

Lead Officer: Christine Addison, Assistant Director Major Projects and Property (Interim)

Ward(s) affected: Bounds Green

**Report for Key/
Non Key Decision:** Key

1. Describe the issue under consideration

1.1 Munro Works is part of the Council's Commercial Property Portfolio, which was subject of a recent review. The review identified Munro Works as a cost liability due to vacant units which cannot be relet under the terms of the lease. It is delivering the poorest commercial performance of any industrial asset in the Council's portfolio.

1.2 Munro Works is a medium size industrial estate at Cline Road, Bounds Green, N11 2LZ with the Council holds a long leasehold interest at expiring in 2082 at a rent of £128,750 per annum; subject to upward only rent review every 5 years, with the next review falling in December 2023.

1.3 The lease includes the option for the Council to acquire the freehold of the property. This option was exercised in 2014. This report seeks authority to complete the negotiations and the acquisition of the freehold of the property based on the business case set out in Part B to this report.

2. Cabinet Member Introduction

2.1 The purchase of the Freehold interest in this property would enable the Council to exit an onerous head lease arrangement, and to support economic development in the Borough in line with the Borough Plan by letting vacant units on this estate. The purchase would also contribute to MTFs savings.

3. Recommendations

3.1 It is recommended that Cabinet :

- a) note the current onerous leasing arrangement of Munro Works and ongoing cost to the Council.
- b) note that the Council has exercised its option to acquire the freehold interest and gives approval to complete the purchase of Munro Works for a consideration not exceeding the value detailed in the exempt section, Part B, of this report; and
- c) give delegated authority to the Director of Housing, Regeneration and Planning after consultation with the Cabinet Member for Finance and Strategic Regeneration and Director of Finance to approve the final purchase price and the Heads of Terms and all other documentation required to give effect to the acquisition as set out in Part B of the report.
- d) note that the capital cost of the purchase and any associated costs of refurbishment, as outlined in the Exempt report, can be funded from the approved capital programme.

4. Reasons for decision

4.1 The Munro Works site is an onerous asset in its current form costing the Council £92,250 per annum (based on the head rent paid less the income from the sub letting) in rental terms potentially until lease expiry in 62 years time, due to the restrictive covenants on sub-letting in the head lease..

4.2 There is clear rationale to purchase the Freehold interest in Munro Works to stem the loss of rental income and business rates, and to achieve control of this investment in the future.

4.3 On 10th April 2014 a Leader decision was taken to exercise the Option to acquire the freehold interest. That Option was exercised on 17th April 2014. However, the acquisition was left in abeyance as the parties were unable to agree the purchase price at the time. The acquisition of the freehold interest would enable the Council to actively manage this industrial estate, and maximise income potential for the future from efficient estate management and in line with the Council's Asset Management Plan and MTFS.

5. Alternative options considered

5.1 The alternative option is not to purchase the freehold interest in Munro Works and to manage the asset without changing the lease structure. If no action is taken to acquire the Freehold, the Council will continue to suffer a net loss of rental income, as set out below together with a loss of business rates in respect of the unlet and vacant units, currently amounting to a sum set out in Part B of this report. Further information is set out in Part B of this report.

5.2 The Council would continue to suffer an annual net loss which would worsen during the rest of the lease, and be exacerbated at the end of the lease in the likely event that a schedule of dilapidations would be served on the Council at that time. Moreover, full business rates are payable by the Council on the vacant units at Munro Works (full details are included in the Exempt report).

5.3 Another option is the restructuring of the letting arrangements at the estate to achieve a single letting of the whole, as permitted in the Headlease. This would be likely to achieve a lower overall rent than letting individual units, and would increase the Council's risk with regard to voids, rent arrears and lease default. It is therefore considered an unattractive option.

5.4 The Council could surrender the existing headlease and renegotiate terms under a new lease structure. This was previously considered, but would necessitate foregoing the option to purchase and an adjustment to the rent review clause to reflect these changes which would not benefit the Council.

6. Background information

6.1 The Council's long leasehold interest in Munro Works commenced on 9th December 1983, after the GLC purchased the freehold interest as part of a joint venture with the Council with the objective of generating and protecting local employment.

6.2 The GLC granted the Council a long leasehold interest in the property expiring in December 2082, circa 62 years unexpired.

6.3 The site comprises two large industrial/warehouse units and four small factory units forming part of a medium-sized industrial estate, the estimated net internal area of which is approximately 29,500 square feet.

6.4 The estate is accessed via an access road known as Munro Drive, which is part of the demised land and premises. The site is shown edged red on the attached plan at Appendix A and photographs are included at Appendix B.

6.5 Units 2 & 3 are let on the estate to Roma Marble Limited who are holding over under two sub-leases, and have been in occupation since before the purchase of the freehold interest by Carmel Southend Ltd in 2001.

6.6 The headlease restricts the occupation of the site to that of a single letting of the whole of the demised premises. Single occupation of the whole site ceased many years ago and currently 4 of the 6 units are vacant with one tenant occupying 2 units paying rent of £36,500 per annum, with the Council having to pay the remaining rent of the four vacant units at £92,250 per annum. The Council is also liable for the business rates on the vacant part of the property (units 1, 4, 5 & 6) amounting to £76,608 per annum, and this loss has been sustained for more than 15 years.

6.7 Carmel Southend Limited (Freeholder) has previously refused to grant the Council permission to sublet individual units without varying the terms of the lease further in their favour. The rent review pattern on the head lease is five yearly, upward only to full market value with the next review in December 2023. Therefore, the current leasing arrangement makes it difficult to cover the costs of the property.

6.8 A Cabinet report was previously approved by the then Leader on 10th April 2014, to exercise the option and purchase the Freehold interest in Munro Works as set out in Part B of this report with delegated authority for the Section 151 Officer and the Director of Regeneration, Planning and Development to agree the final terms of the acquisition.

6.9 Further information is set out in Part B of this report.

6.10 Further information is set out in Part B of this report

6.11 Further information is set out in Part B of this report

6.12 Further information is set out in Part B of this report

6.13 Further information is set out in Part B of this report

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6.16 The option to purchase was triggered by formal Option Notice served on the Freeholder on 17th April 2014 . Whilst negotiations to purchase the Freehold were undertaken for a period of two years it is now proposed to continue discussions in order to complete the purchase of the Freehold in accordance with the valid Option Notice served in April 2014. Owing to the lapse of time it is considered appropriate to seek a new Cabinet approval to confirm the continued intention to acquire the freehold and to approve the price to be paid (subject to the financial limits set out in the Exempt report).

6.17 The option in the lease in the event of disagreement on the value between the parties allows for the matter to go to arbitration. This process would require the arbitrator to provide a figure for the freehold which would be binding on both parties.

6.18 The property market is currently impacted by the effects of Covid-19. However the Industrial market is currently holding up well against other forms of property. London in particular has a limited amount of Industrial and warehouse space available and rents and investment values remain relatively strong.

7. Contribution to strategic outcomes

7.1 Under the Council's Borough Plan the proposal supports the following:
Economy – 'A growing economy which provides opportunities for all our residents and supports our businesses to thrive'

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance

8.1 Paragraphs 8.1 – 8.5 are in the exempt part of the report

Procurement

8.6 The Corporate Procurement Unit notes the recommendations in this report and that there is no input from procurement required.

Legal

8.7 Approval for the acquisition was given by a Leader decision taken on 10 April 2014 and having exercised the Option, the Council is still under contract with the freeholder to acquire the property subject to the purchase price being agreed.

8.8 The Council has the authority under Section 120 of the Local Government Act 1972 to acquire land for the purposes of (a) any of their functions under this or any other enactment, or (b) the benefit, improvement or development of their area.

8.9 Further legal comments are in Part B to this report.

Equality

8.10 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to :

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

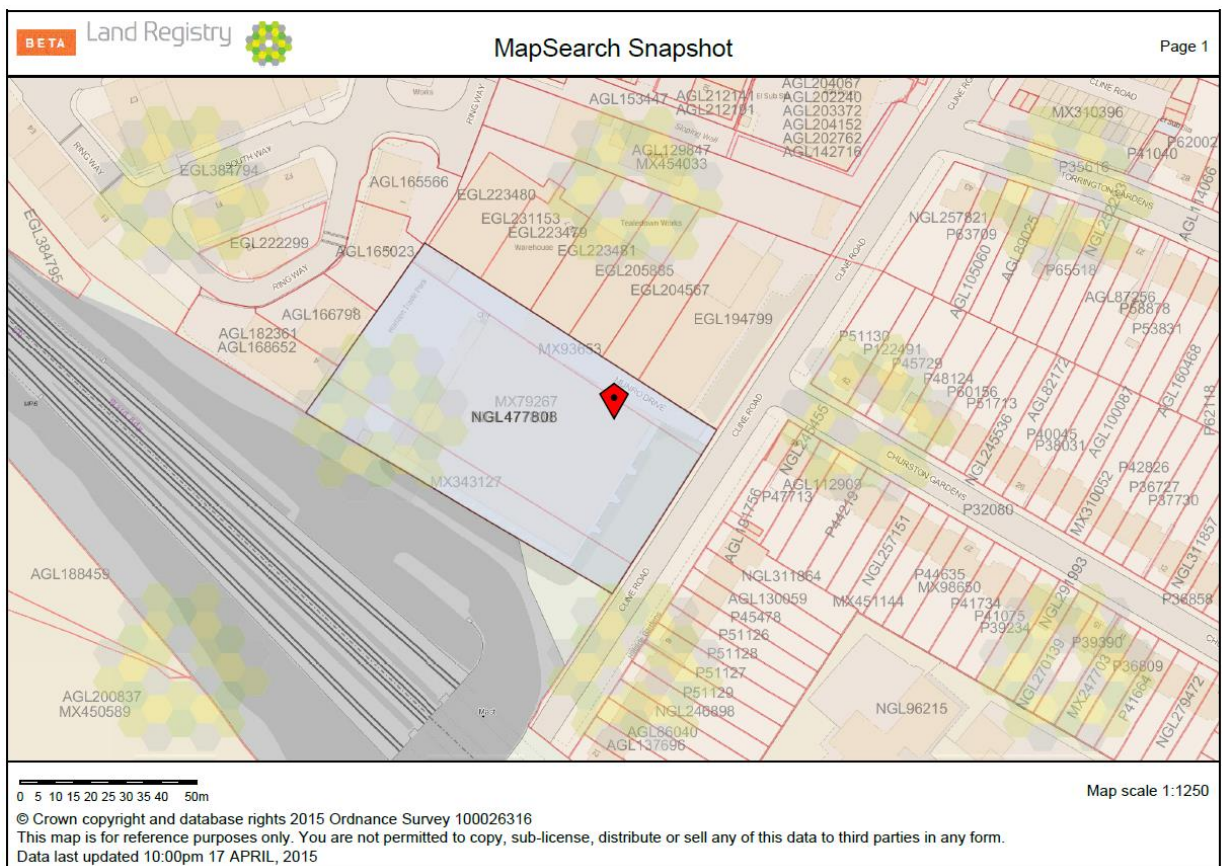
8.11 The proposed decision is to agree to the purchase of the freehold interest of Munro Works. There are no particular equalities implications arising from this decision. The Council will have due regard for the need to achieve the three aims of the public sector equality duty in any decision regarding the site in the future.

**9. Appendix A – Site Plan
Appendix B - Photographs**

10. Local Government (Access to Information) Act 1985

- a. Background document - 10th April 2014 Leader decision.
- b. Part of the report is exempt as it contains information classified as exempt under Schedule 12A of the Local Government Act 1972 in that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information).

Appendix A – Site Plan



Appendix B – Photographs of the site



