



<b>Meeting or Decision Maker(s):</b>	Cabinet Member for Finance and Council Reform
<b>Date:</b>	02 September 2022
<b>Classification:</b>	General issue
<b>Title:</b>	Odeon Cinema, Panton Street – Renewal of Lease
<b>Wards Affected:</b>	St James’s
<b>Key Decision:</b>	Yes
<b>Policy Context:</b>	This decision will secure income that can be used to help deliver the Council’s priorities.
<b>Financial Summary:</b>	The lease renewal will extend the income stream from the property until the same date as the adjoining car-park whilst the Council considers to review the future options for the building (Huguenot House) in which both sit.
<b>Report of:</b>	Gerald Almeroth, Executive Director, Finance and Resources

## 1. Executive Summary

- 1.1 Officers seek delegated authority to complete a new lease to ABC Cinema (‘New Lease’), the existing Tenant, for the cinema at Panton which forms part of Huguenot House. The New Lease will take effect upon expiry of the current lease on 6 January 2023.
- 1.2 The proposed terms of the New Lease are summarised at Paragraph below and will show a reduction in the current rent passing.

## 2. Recommendation

- 2.1 The Cabinet Member is recommended to approve the grant of the proposed New Lease and give delegated authority to the Director of Property and Strategic Asset Management to

agree minor variations to the terms to enable the agreed final form of legal documentation to be executed and completed.

### **3. Reasons for Decision**

3.1 The key reasons and rationale for supporting this decision are as follows:

- (1) The grant of a New Lease will extend the income stream from the subject investment property and represents best value for the Council when considered alongside prevailing market levels and the need to retain flexibility in possibly obtaining vacant possession in the Summer of 2024.
- (2) The proposed length of the term under the lease has regard to the fact that the subject property forms part of Huguenot House where there is also a multi-level carpark, let to Q-Park where the lease expires in August 2024.
- (3) The New Lease will retain the tenant's existing statutory protection and as such they will be legally entitled to a further lease at expiry unless the Landlord can show it has a genuine intention to re-develop and as such requires vacant possession

### **4. Background**

4.1 The Odeon Cinema on Panton Street forms part of Westminster's island site known as Huguenot House, held in the General Fund.

4.2 The whole building had been the subject of various proposals to significantly refurbish or completely redevelop. Currently the Council is reviewing the latest set of options in order to update the Cabinet Member.

4.3 The subject cinema is arranged over 2 floors and has a total area of 9,290 sq ft.

#### **4.4 Current Lease**

- The property is currently let in its entirety to ABC Cinemas Limited on the following terms:
- **Term** – Expires on 6 January 2023
- **Passing Rent** - £155,000 per annum exclusive
- Tenant effectively responsible for internal repairs and costs of insurance

- The lease is NOT excluded from the Landlord & Tenant Act 1954
- **Alienation** – The tenant is able to assign or sub-let the whole subject the Landlord's consent
- **Mutual Break Clause** – operable by either party on 3 months' notice at any time during the final year of the term

#### 4.5 Lease Renewal Negotiations

- (1) Odeon approached Westminster CC informally in March 2022 seeking to extend their occupation of the subject property beyond the expiry of the current lease
- (2) Terms were agreed subject to contract and formal approval as detailed below directly between the parties
- (3) So as to protect their legal position Odeon have recently served a Notice on WCC in accordance with the 1954 Act requesting a new lease

#### 4.6 Proposed New Lease Terms

- 4.6.1 In considering prospective terms for a further lease the Council were mindful of both the point reached regarding consideration of the various prospective refurbishment and re-development options for the building as a whole as well as the terms of the other existing commercial leases.
- 4.6.2 Of particular relevance is the lease to Q-Park of the car park within the building which is due to expire in August 2024.
- 4.6.3 Odeon accepted the Council's proposal to retain as much flexibility as possible within any new Lease and as such the principle that the expiry date be the same as that in the car park lease.
- 4.6.4 However Odeon sought that the rent payable under the new lease reflect the fact that the cinema industry has yet to recover to pre-pandemic levels in terms of audience attendance and income received. As such a revised rent below that passing under the existing lease has been agreed in line with current market levels.
- 4.6.5 Terms have been agreed on the following basis which have been signed off by Odeon's Board:

4.6.5.1 lease term from 7 January 2023 to 31 August 2024

4.6.5.2 rent of £140,000 per annum

4.6.5.3 rolling mutual break clause operable at any time on 6 months' notice

4.6.5.4 Lease to be inside the 1954 Act

4.6.5.5 The remaining proposed lease terms and conditions to mirror those contained within the current lease

## **5. Financial & Risk Implications**

- 5.1 Currently the Odeon Cinema at Panton Street generates rental income of £155,000 per annum. Under the proposed new lease from 7th January 2023, the rental income will reduce by £15,000 per annum to £140,000. Over the course of the 20 month lease, this equates to £233,000, a reduction of £25,000 compared with the same time period at current rent levels. Although this is a reduction in rent, it does reflect current market levels given reduced income for cinemas following the pandemic. The price agreed is also constrained by the need for a relatively short lease term to facilitate the potential redevelopment of the whole Huguenot House building.
- 5.2 The main risk is that the redevelopment is not ready to start in September 2024 so another short lease is required. However, linking the lease end date with that of the adjoining car park will increase the options available.

## **6. Legal Implications**

- 6.1 The Council has the power to enter into the proposed lease under section 1 of the Localism Act 2011 (the "General Power of Competence"). The General Power of Competence states that a local authority may do anything a person can do so long as it is specifically prohibited (under that Act or other legislation not prohibited). A local authority may exercise the General Power of Competence for its own purpose, for a commercial purpose or for the benefit of others.

- 6.2 The Council has the power under section 123 of Local Government Act 1972 to dispose of land. The only constraint is that a disposal must be for the best consideration reasonably obtainable (except in the case of short tenancies). Anything less than best value will require Secretary of State consent unless the difference between the unrestricted value of the interest to be disposed of and the consideration accepted ("the undervalue") is £2,000,000 (two million pounds) or less and the disposal is to help it secure the promotion or improvement of the economic, social or environmental well-being of its area. For the purposes of section 123 short term tenancy is defined as the grant of a lease for a term not exceeding seven years. This is for the grant of a lease for one year.
- 6.3 The lease is included in the Landlord & Tenant Act, 1954 meaning that the Tenant will have a statutory right to renew its tenancy at the end of the contractual term. The Landlord can object to a new lease provided the Landlord can show one or more of the grounds under section 30 (1) (a)-(g) of the Landlord and Tenant Act 1954 applies. One of the grounds being redevelopment. Thus, even if Landlord operates the break clause the Landlord will still be obliged to offer a new lease to the tenant unless one or more of the grounds referred to in this paragraph applies.
- 6.4 Under section 111 of the Local Government Act 1972, a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.

## **7. Staffing Implications**

7.1 N/A

## **8. Consultation**

8.1 The Cabinet Member for Finance and Council Reform was informed in June 2022 as to the likely outcome of negotiations. All Ward Members will be contacted with a summary of the proposed new lease for comment.

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:

Phil Owen (Head of Strategic Asset Management, Finance and Resources) [powen@westminster.gov.uk](mailto:powen@westminster.gov.uk) / 020 7641

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**List of appendices:**

None

*NB: For individual Cabinet Member reports only*

For completion by the **Cabinet Member for Finance and Council Reform**

**Declaration of Interest**

I have no interest to declare in respect of this report

Signed:  Date: 02 September 2022

NAME: Councillor David Boothroyd, Cabinet Member for Finance and Council Reform

State nature of interest if any .....

*(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)*

For the reasons set out above, I agree the recommendation(s) in the report entitled  
Odeon Cinema, Panton Street – Renewal of Lease

Signed  .....

Cabinet Member for Finance and Council Reform.

Date ...02 September 2022.....

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:  
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If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law and City Treasurer so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.