



City of Westminster

Cabinet Member Report

Meeting or Decision Maker:

David Boothroyd, Cabinet Member for
Finance and Council Reform

Date:

15 March 2023

Classification:

For General Release save for the
Appendix Restricted under Paragraphs 3
and 5 of Schedule 12A Local
Government Act 1972 (as amended)

Title:

Sub lease of part Cathedral Square
Piazza, Victoria Street, SW1

Wards Affected:

Vincent Square

Policy Context

This decision implements and supports
on-going efforts to design out anti-social
behaviour at Cathedral Piazza through
innovative and sustainable solutions
which address long-standing local
residents' and businesses' concerns

Key Decision:

No

Financial Summary:

The commercial terms of the proposed
letting are included in the Confidential
Appendix. There are no financial costs
incurred as part of this transaction.

Report of:

Claire Barrett – Director of Corporate
Property and Strategic Asset
Management

1. Executive Summary

- 1.1 Officers are proposing that the Council (WCC) enter into a sublease of an area within Cathedral Square Piazza, Victoria ("Piazza"). The area concerned forms part of the land leased to WCC and is located on the West side of the Piazza under the colonnades. WCC entered into a deed of variation in 2012 with Landsec and Kirkglade Ltd, the owners of the adjoining land, to give WCC the option to grant a sublease as WCC's lease prohibits alienation. The site sits in the General Fund.
- 1.2 The area in question has been subject to anti-social behaviour for many years and in 2020 the Council hoarded the area in question to reduce anti-social behaviour in the immediate area.
- 1.3 This paper seeks approval for the grant of a sub-lease of some of the under-arches of the colonnades at the Piazza to Kirkglade to implement approved plans to reduce anti-social behaviour in the locality and create a safer space.

2. Recommendations

- 2.1 The Cabinet Member for Finance and Council Reform:
 - 2.1.1 Approves the grant of a sublease for a small parcel of land in SW1P 1LT to Kirkglade for a term expiring on 20 June 2075. See Appendix A for location.
 - 2.1.2 Authorises the Director of Corporate Property and the Director of Law (as appropriate) to complete any legal agreements to facilitate recommendation 1 above.

3. Reasons for Decision

- 3.1 Due to the historic anti-social behaviour in this location and costs associated with its management, it is recommended that a sub-lease is granted to prevent future expenditure by WCC in managing those issues in this location and to improve the public realm.

4. Background, including Policy Context

- 4.1 WCC has a leasehold interest in the Piazza Victoria Street pursuant to a lease from the Church Commissioners dated 4 May 1977. The lease was granted for a term of 99 years at a peppercorn rent with effect from 24 May 1977. There are 52 years left of the term.
- 4.2 The lease states that there is an absolute prohibition on any form of alienation.

- 4.3 The lease was varied by a Deed of Variation (DoV) dated 26 July 2012 made between LS Ashdown and Kirkglade and the Council which permitted (but did not oblige) the Council to grant a sub-lease of a specified part of the Piazza to Kirkglade. The DoV allowed a sub-lease to be granted for the area under the colonnades.
- 4.4 In October 2019 the level of anti-social behaviour was such that the Public Protection and Licencing team at WCC erected hoarding sealing off access to the area under the colonnades which has been effective in reducing the anti-social behaviour within the immediate area.
- 4.5 Kirkglade, the owner of the building adjacent to the area that is hoarded, approached WCC to progress the sub-lease that was agreed between all parties.
- 4.6 The proposal received is for Kirkglade to take a sub-lease of the area on the terms agreed in question for the remainder of WCC's term (less three days).
- 4.7 In June 2021 Kirkglade received planning permission (20/03402/Full):
- to infill the existing bays under the colonnade to create 2 small retail kiosks; and
 - to extend the existing retail unit; and
 - to create temporary exhibition space or a planting area in the north west corner.
- 4.8 The Council has received advice from the external valuers on the value of their leasehold interest in the subject area of land. Details of which are listed in Appendix A.

5. Financial Implications

- 5.1 There will be no contribution from WCC to the construction works to create the new units that are being completed. No income is received from the sublease, and there will be no change to this under the current proposal.

6. Legal Implications

- 6.1 Local authorities are given powers under section 123 of the Local Government Act 1972 to dispose of land in any manner they wish, including sale of their freehold interest, granting a lease, or assigning any unexpired term on a lease, and the granting of easements. The only constraint is that a disposal must be for the best consideration reasonably obtainable (except in the case of short tenancies), unless the Secretary of State (SoS) consents to the disposal.
- 6.2 Under the Local Government Act 1972 General Disposal Consent (England) 2003 ("General Consent") the Council can dispose of land at less than market value reasonably obtainable where certain conditions are satisfied. The terms

of the General Consent mean that specific SoS consent is not required for the disposal of any interest in land which a local authority considers will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area. Officers have explained the anti-social behaviour experienced in this locality and the negative impact on City businesses and residents. This disposal would therefore help secure the improvement of the economic and social well-being of the area. In all cases, disposals at less than best consideration are subject to the condition that the undervalue does not exceed £2,000,000 (two million pounds).

6.3 The proposed sublease rent is not best consideration however entering into the sublease will help WCC design out anti-social behaviour in the locality as well as save long-term on the high costs of staffing required to deal with anti-social behaviour. Therefore, the disposal will “*secure the promotion or improvement of the economic, social or environmental well-being of its area*”. Further, the undervalue does not exceed £2,000,000. The General Consent therefore applies notwithstanding best consideration is not being obtained for this proposed land disposal and SoS consent is not required to grant the sublease.

6.4 Sections 24-28 of Part II of The Landlord and Tenant Act 1954 (“1954 Act”) gives a business tenant a statutory right to request a new lease (subject to rent) on substantially the same terms as it had before (security of tenure) on expiry of the lease. Parties can agree to contract out of the 1954 Act so that a business tenant does not have security of tenure and is not entitled to a new lease when the lease ends. The sublease will be contracted out the provisions of Sections 24-28 of Part II of the Landlord and Tenant Act 1954. This means the subtenant will not have a statutory right to request a new sublease on expiry of the term.

6.5 The Subsidy Control Act 2022 does not apply to this disposal.

7. Carbon Impact

7.1 There is no carbon impact from this decision which relates to the new lease of an existing WCC property.

8. Consultation

8.1 A briefing note was presented to the Cabinet Member on 20 December 2022.

8.2 An email was sent to Ward Members on the 8 February 2023.

9. Equalities

9.1 The Equality Act 2010 requires public authorities to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster

good relations. The Council must further take into account its wider public sector equality duty under section 149 of the Equality Act 2010 when making decisions. There are no direct equalities implications on this sublease, and the report confirms that due consideration has been given in progressing the proposals.

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

Ian McAuley, imcauley@westminster.gov.uk

APPENDICES

Appendix A – Summary of valuation advice (Restricted under paragraph 3, schedule 12A of Local Government Act 1972)

Appendix B – Confidential Information (Restricted under paragraph 5, schedule 12A of Local Government Act 1972)

BACKGROUND PAPERS

None.

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

Declaration of Interest

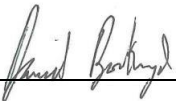
I have no interest to declare in respect of this report

Signed:  Date: 15 March 2023
NAME: **Cllr David Boothroyd**

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 **Sublease of part-arches colonnades of Cathedral Square Piazza, Victoria Street, London SW1** and reject any alternative options which are referred to but not recommended.

Signed: 

Cabinet Member for Finance and Council Reform

Date: 15 March 2023

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:

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, City Treasurer and, if there are resources implications, the Director of People Services (or their representatives) 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.