

Executive Member Decision Session

Report of the Corporate Director of Economy and Place

Askham Bar Nursery, Tadcaster Road – Mutual Agreement to End a Lease

Summary

1. This report sets out a proposal to terminate the lease between the Council and the tenant of Askham Bar Nursery by mutual agreement. The proposed future early termination of the lease (by signing a deed of surrender) has provisionally been agreed between the Council and its tenant. The premises are located on the former Park & Ride site off Tadcaster Road in York and which is identified on the plan in Appendix A.

Recommendation

2. The Executive Member is asked to agree to the request to end the lease by way of a lease surrender with a compensation payment of £35,000 being paid to the tenant.

Reason: This will enable the wider redevelopment of the former park and ride site which is allocated for housing allocation in the Draft Local Plan.

Background

3. Askham Bar Day Nursery operates from the former tourist information centre/ticket office building at the former park and ride site. The nursery has been in operation since 1996 and the lease includes 6 parking spaces. The current rent received by the Council is £13,000 per annum.
4. Since the closure and relocation of the Park & Ride site, the Nursery has been granted a number of short term leases, enabling them to continue in occupation. The contractual term of the last lease expired on 30th August 2018 and the tenant has been holding over on the same terms as this lease afforded by protection of the Landlord & Tenant Act 1954.

5. Negotiations have been held between the Council and its tenant for the surrender of the lease with effect from the end of August 2019. A £35,000 compensation payment has been negotiated with the tenant. The amount of the compensation reflects the statutory compensation that would be payable by the Council to the tenant pursuant to the Landlord and Tenant Act (LTA) 1954 if the Council wanted to refuse a request from the grant of a further lease of the premises, if it wished to redevelop the premises.
6. The former Askham Bar Park and Ride site is allocated for housing in the draft Local Plan (site H8). The site within the local plan measures 1.57 hectares and includes the area of the nursery building.
7. In July 2018, Executive approved a report which included the whole Askham Bar site within the scope of the programme for the delivery of council built housing.
8. In the same report Executive approved the following recommendation - '*Agree to undertake detailed design work to develop and submit planning applications for the Askham Bar and Burnhome sites to be funded from the HRA investment Reserve at a cost of £700k.*' Following the procurement of a new multi-disciplinary design team earlier this year, we are now in a position to start the public engagement and design work on this site.
9. Through further analysis of the site it is considered that it would be extremely difficult to provide vehicular access to the nursery during any construction works. Furthermore, the building which the nursery operates from was not designed for this purpose and it is not considered that it can provide a quality nursery provision in the long term. It is therefore considered that the best option is to end the lease and consider the early years' needs of the area as part of the wider site redevelopment.
10. Discussions have taken place with the tenant who has expressed concerns about the ability to operate a high quality nursery facility from this building in the long term. The tenant is liaising with the Council's early years team to help find alternative provision for the children who currently attend the nursery. Agreeing a mutual

termination date provides certainty and supports contingency planning for our early years' team and existing customers.

11. Discussions have also taken place with the tenant as to when they would wish to ideally vacate in order to provide certainty to their customers for the next nursery term. The tenant has advised that they would like to terminate the lease by the end of August 2019.

Options

12. Should the recommendation not be pursued then the lease could either be renewed which does not accord to the plans to redevelop the site or held in abeyance which would cause continuing uncertainty to the tenant.

Council Plan & Values

13. The proposed policy supports the Council policy of "A Prosperous City for All"

Implications

Financial – The compensation payment will be payable to the tenant on termination of the lease agreement as detailed within the report. This will be funded from the HRA enabling funds for this site.

Human Resources (HR) – None

Equalities, Crime and Disorder and IT – None

Legal – If the tenant exercised their statutory right to renew the lease the Council would be statutorily obliged to pay compensation equal to twice the current rateable value of the premise if the Council wished to refuse a further lease due to the Council intending to redevelop the premises. Termination of the lease will be subject to the completion of the necessary formal legal documentation.

Property – Contained within the Report.

Other – None

Risk Management

14. If the lease is not terminated by agreement then the proposed development of the site will be at significant risk.
15. The proposals will be documented by way of formal legal documentation to ensure that an agreement is binding, mitigating risks of not formalising and implementing any agreement.

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Wards Affected: Dringhouses & Woodthorpe

For further information please contact the author of the report

Annexes

Appendix A - Location Plan