

Lease to the Council of 51-63 Ridley Road, London E8 2ND

Key Decision No - FCR S052

**CABINET MEETING DATE
(2021/22)**

24 January 2022

CLASSIFICATION:

Open with exempt appendices 2 - 6

By Virtue of Paragraph(s) 3, Part 1 of schedule 12A of the Local Government Act 1972 Appendix 2 - 6 are exempt because they contain information relating to the financial or business affairs of any particular person (including the authority holding the information) and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

WARD(S) AFFECTED

Dalston

CABINET MEMBER

Mayor Philip Glanville

KEY DECISION

Yes

REASON

Spending/or saving

GROUP DIRECTOR

Ian Williams

1. CABINET MEMBER'S INTRODUCTION

- 1.1 Four years ago the Council launched the Dalston Conversation, it became the biggest ever local community engagement exercise seeing over 5,000 people take part in a dialogue about the future of Dalston and how to manage the big changes the area is experiencing.
- 1.2 Since then, the Council has pledged to act on what the community have said, ensuring local people and businesses are the first to benefit from change, delivering a fair recovery from the coronavirus pandemic and protecting what the community values most – including the much-loved Ridley Road street market.
- 1.3 The Council has captured the community's comments and ambitions and is investing £1 million into Ridley Road to create a cleaner, greener and more accessible street market by introducing new Planning rules which protect retail uses along Ridley Road, installing free public wifi, street enhancements and improvements and providing new market stalls for traders.
- 1.4 By acquiring a lease for the privately-owned indoor market Ridley Road Shopping Village, – home to a mix of independent businesses and traders that has previously been under threat from redevelopment – the Council can strengthen Ridley Road's long-term future.
- 1.5 The Council had already secured the building by designating it as an Asset of Community Value but by taking a long-term lease following its refurbishment, it can help protect existing independent businesses in a much-improved building and under the Council's management. It will also give street market traders the opportunity to access low-cost permanent indoor premises within the building and create better services for market traders and the Councils Market Services by providing new trader storage facilities and market offices.
- 1.6 By bringing the shopping village and the street market together both under the Council's stewardship, it will strengthen Ridley Road's position as a vital part of Dalston's economy for the long-term, complement each other and both managed in the interests of local traders, businesses and residents.

2. GROUP DIRECTOR'S INTRODUCTION

- 2.1 This report seeks approval to acquire a lease of 15 years from Larochette Real Estate Inc, with an option to break at the end of the 7th year of the property known as 51-63 Ridley Road, London E8 2ND at an initial rent of £306,000. There is to be a rent review to CPI at the fourth anniversary of the term.
- 2.2 In addition to the landlord carrying out refurbishment works to the agreed plans and specification to the property, in accordance with planning permission received on 23 November 2021, the Council will be granted a six month rent free period from the commencement of the lease.
- 2.3 The Markets team considers that a small surplus can be realised over and above the cost of the lease rent and service charge.
- 2.4 For the first few months of the lease there will be an extra rent still payable on the existing office accommodation of £13,350, plus service charge of circa £4,000 p.a., until the break can be exercised at the end of February 2023.
- 2.5 The acquisition of the 15 year lease for the indoor market is a key to the refurbishment of the indoor market and to breathing life back into Ridley Road Market.
- 2.6 Strategic Property Services are satisfied that the rental charge under the lease satisfies the implications of S123 of the Local Government Act of 1972 for best value.

3.0 RECOMMENDATION(S)

Cabinet is recommended to:-

- 3.1. Authorise the acquisition, (entering into) of a 15 year lease, subject to a break clause at the end of the 7th year, at an initial rent of £306,000 p.a. in the property known as 51-63 Ridley Road, London E8 2ND, as shown edged in red, from Larochette Real Estate Inc.
- 3.2 To delegate to the Group Director of Finance and Corporate Resources authority to determine the most cost effective options in terms of financing the acquisition of the lease in ways that represent best value on the part of the Council.
- 3.3 Authorise the Director of Legal and Governance Services to prepare, agree, settle and sign the necessary legal documentation to effect the proposals contained in this report and to enter into any other ancillary legal documentation as required.

4.0 REASONS FOR DECISION

- 4.1 The market has been heavily relied upon by Dalston's community throughout the pandemic being the only daily market in London to continue trading in lockdown and in particular supporting an increased number of low income families accessing fresh fruit and vegetables via the Alexander Rose charity voucher scheme.
- 4.2 The Dalston Plan and specifically Ridley Rd Market Good Growth Fund project will enrich and invigorate this much needed and used community asset that serves some of the most vulnerable in our local community. A change of approach in designing out criminality is needed at this hot spot and is also an opportunity to implement a number of strategies that will support local businesses, the community and wider area with a permanent presence of council offices in the heart of Ridley Road market.
- 4.3 With the Markets Service managing the retail units within the building it is able to offer traders more permanent premises allowing them to graduate from a stall to a building and support the growth of their business at affordable prices and in so doing, supports delivery of the Council's inclusive economy objective.
- 4.4 Negotiations with the landlord have resulted in agreed floor layouts, costings and provisional heads of terms with an initial six month rent free period for all floors to help the service achieve maximum retail occupancy. As well as increasing the volume of retail and storage units at affordable prices for traders, the proposals will provide enough workspace for the Markets team whose daily presence and visible active management of the building will reduce criminality and make Ridley Road safer and more attractive to customers.
- 4.5 If undertaken, these proposals will further demonstrate the Council's long term commitment to the success and growth of Ridley Road following the £1.m Good Growth Fund investment and development of the market during 2019-2022.
- 4.6 It is estimated by Market Services that the letting of the retail and storage facilities will deliver a small surplus over the lease rent and service charge leaving the occupancy of the office space on the first floor to be at no cost to the Council once the lease of the current offices expires in 2023.
- 4.7 The benefits from entering into this lease are significant and with an opportunity to generate surplus income to the Council from rents and fees, whilst playing a significant role in working with the landlord to design out crime and ASB hotspots as part of the development.

5.0 DETAILS OF ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 5.1 The Council is considering an opportunity that has been offered to them. The opportunities that are associated with this building are unique to this building. There are no alternative properties that offer the same potential.
- 5.2 Purchase the freehold. The owners have given no indication that they would be prepared to dispose of the freehold and we would have to acquire the whole building and be responsible for all structural defects. Under the lease the Council is only responsible for internal repairs and decoration. The Council is not seeking to pick up the cost of the refurbishment of the whole building as well as the capital for the freehold interest if it is acquired.
- 5.3 Doing nothing is an option but all the benefits outlined in this report will be missed and an opportunity to invest in Ridley Road will be lost. However, doing nothing would not expose the Council to a contractual commitment to pay a substantial rent for seven years.

6.0 BACKGROUND

For many years the Ridley Road Shopping Village on Ridley Road has suffered from under investment, low levels of retail occupancy and has become a magnet for crime, drug dealing and anti-social behaviour.

In late 2020 the owner of the building submitted a planning application to redevelop and extend the building into 5 residential dwellings via a roof extension, new retail units at ground floor and employment space on floors 1 and 2, but before it had been fully considered by the Council's Planning Committee the applicant withdrew the planning application agreeing instead to work with the Council to seek alternative options to enhance and develop the site.

The landlord's planning proposal was to build five luxury flats and high-end office space, as well as 22 "retail units" for market traders on the ground floor. Traders were to be given first refusal on the new units but these were only to be offered at full retail market rents. These plans were met with public outrage.

An opportunity has arisen for Hackney Council to enter into a 15 year lease, with the right to break at the 7th year, of the refurbished basement, ground and part first floor of the building (paid for by the landlord) with the right to extend the lease at the end of this period. This will provide a secure once-in-a-generation opportunity to help market traders grow their businesses into low-cost permanent premises, provide retail opportunities for new traders seeking independent retail units, design out and displace anti-social behaviour and create an enlarged office facility to provide a new base for the Markets Service alongside improved storage facilities for Ridley Road traders.

The existing development at this address comprises a 3 / 4 storey building which houses 'Ridley Road Shopping Village'. An indoor shopping development situated centrally within Dalston's Ridley Road Market off Kingsland High Street between the junctions of Colvestone Crescent and St Mark's Rise. The Shopping Village will be for small traders (units are typically 3m x 3m in size) at ground floor level, with the first and second floor levels currently used as B1 space, and the lower ground floor as servicing / delivery / storage space. The lower ground floor has vehicular access provided via a ramp to the eastern side of the property, meaning that whilst the building is four storeys in total, only three number storeys are effectively visible from street level on Ridley Road itself. The existing building is in very poor condition and suffers from design defects. The proposals include, in addition to the internal new arrangement: replacement windows, painting / limewash to existing brickwork and external walls, new condenser units to the roof.

There have been a number of weapon related offences and a significant increase in volume of aggressive and/or threatening behaviour towards Council officers, the police and the wider public. At present the existing layout of the building supports these types of criminal activities and is in need of refurbishment to design out the ASB and illegal activities in this area of the Market. If this dangerous behaviour and non-compliance continues it will detract from the investment the Council and the GLA are putting into the Street Market and will continue to damage the reputation of the Ridley Road Brand.

The Markets Service proposal is that rather than leave the unit in its current dilapidated state, which would continue to have a detrimental impact to the area due to the negative impact of the ASB and other illegal activity, the property should be refurbished at the Landlords cost and operated by Markets for a much improved retail, storage and office facility.

6.1 Policy Context

Planning consent for application 2021/0930 was granted on the 23rd November 2021 and the proposed development will comply with the following:

Unitary Development Plan

Core Strategy Local Development Plan

Draft Dalston Plan SPD (Supplementary Planning Document)

In addition, by providing both enhanced community facilities and an improved designed buildings the scheme meets Priorities 3, 5 and 6 of the Sustainable Community Strategy of the Council.

6.2 Equality Impact Assessment

There are no equality impact implications in relation to the property transaction and the leasehold payments to be made by the Council as set out in this Report.

6.3 Sustainability

The transfer of part of the property does not affect the physical usage of the property or its sustainability but the development proposed by the landlord will increase the whole life use of the existing building and provide more sustainability.

6.4 Consultations

Ridley Road Market is a designated licenced street for the purposes of market and street trading under section 24 of the London Local Authorities Act 1990 as amended. As such the Markets and Street Trading Service and by proxy the Council has no statutory obligation to conduct a full public consultation on interventions such as the additional trading days or of any further additional propositions such as running an indoor market or increased storage adjacent to the market as it is already a designated market street and can implement measures without consultation.

6.5 Risk Assessment

6.5.1 The transaction creates a liability to the Council for £306,000 plus service charge of approx £70,000 p.a. together with internal repairs and management of say £30,000 p.a. giving a total of over £400,000 and the risk is that the service does not receive the income it expects and has to bear the cost. However, we are satisfied that the rental charge under the lease satisfies the implications of S123 of the Local Government Act of 1972 for best value.

6.5.2 The most significant risk to this investment opportunity is the confidence in attaining the occupancy level of the property to meet the projected income required to fund the cost of the building. The Markets Service in conjunction with Regeneration have assessed the risks to the income streams as part of the development of the business case. Their assessment of the risks to the income stream is as follows:

6.5.3 Lower Ground Storage Units

6.5.4 The Service advises that in respect of the storage units located on the lower floor, the current layout has 22 units of various sizes in see-through metal cages separated by fencing. The service has agreed on a layout for the storage floor which can be seen in 4.1. This layout will be similar to a big yellow storage proposition and will provide an additional 27 units including 4

refrigerated units of which are currently sought after and the council do not provide at present. This will also include 7 day a week access vs the 5 day a week access currently in place and full CCTV coverage of the area will be implemented for additional security.

The markets Service currently has a waiting list for storage units and taking on the lease for the Indoor Market storage area will provide traders and small business owners who are in dire need of local storage facilities a cost effective storage option in close proximity to their businesses with the added security of this being operated and managed by the Council.

6.5.5 Ground Floor Retail Units

6.5.6 In regards to the 40 retail units on the ground floor, there are approximately 16-18 existing businesses that will return to their units alongside a list of new occupants being identified by both the landlord and the Markets Service to achieve full occupancy including a café which is looking to take two of the large units on the left of the plan. The Markets Service have also engaged with makers/artists and have offered the option of using the units on the retail floor for creating and making their stock with a small shop front to retail it in the same space to provide cost effective trading options. This already equates to over 50% of the available units without actually advertising the availability of units.

6.5.7 Managing arrears

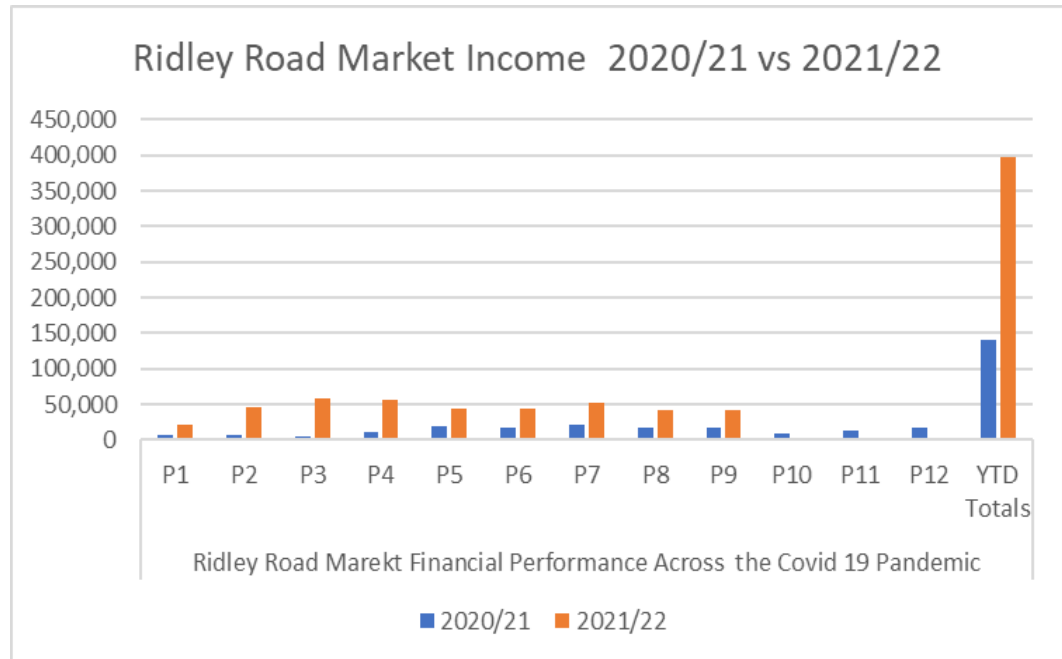
6.5.8 The service closely manages trader payments to minimise arrears, at present there are a total of 1028 licenced market traders across the borough, and of this number 25 are in arrears (@2.5%). A total of 12 payment plans are currently in place to help traders catch up with outstanding payments whilst still being able to trade and generate income. The last three years prior to covid the service carried over less than £3k arrears each year of rental payments owing.

6.5.9 Trading opportunities

6.5.10 It is important to note that Ridley Rd market attracts 4.2 million visitors annually, the retail environment is rapidly changing in Dalston with new premium and aspirational brands committing to opening outlets and retail operations whilst withdrawing from outlying and shopping centre locations in London and the UK. This demonstrates the size of business opportunities that exist now and expected to grow over the coming years. (see related appendices below)

6.5.11 The current Covid 19 Pandemic has significantly impacted both Financial years 2020/21 and 2021/22. During these periods Ridley Road Market was the only 6 day a week operational street market that traded throughout providing much needed goods and services to the boroughs low income

families and most vulnerable residents. This highlights a level of resilience and ability to continue to generate income making opportunities even in the most challenging of environments. The below graph highlights the breakdown of income across both financial year periods.



6.5.12 The graph also highlights the progressive increases in income generation and pitch fees collected as restrictions eased and the service was able to respond quickly in ramping up the volume of traders and commodities permitted post-lockdown. Year to date (to period 9 inclusive) 2021/22 the Service has achieved £398,203 income from Ridley Rd market vs £140,811 for the whole of financial year 2020/21. This provides an increase of £257,392 compared to the previous year. With the final quarter of 2021/22 remaining the Service predicts a final full year income figure of circa £500k. (see appendix below for detailed income figures)

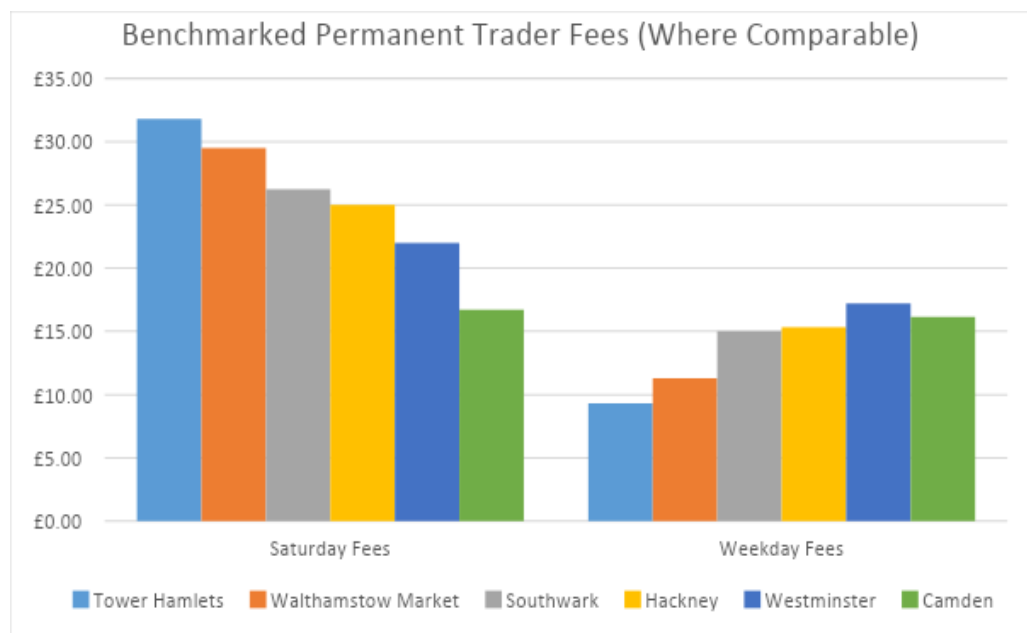
This should provide further assurances that Ridley Rd market has, and continues to, represent a compelling proposition for traders looking to start or grow their businesses, but also demonstrates the sustainable nature of this revenue to the Council.

6.5.13 Fees and reviews

6.5.14 The last fee increase was introduced in 2020 and, despite resistance to the increase, no traders were lost to the market due principally to the daily cost of a stall in Ridley Road, starting at £8 per day, being amongst the lowest in London. The location and footfall offers traders a compelling opportunity to generate income, the footfall will only increase with the redevelopment of the street currently underway and the plan for Market Services to operate the market in full on Sundays later this year.

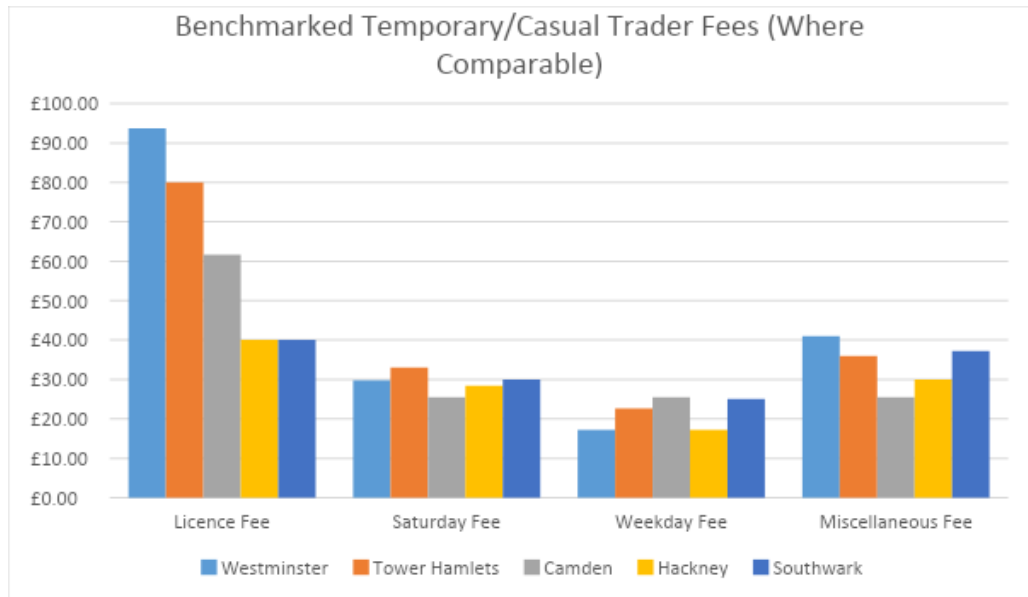
6.5.15 In the event that the income does not flow as projected there are a number of mitigations that the Markets Service can take to maintain income levels. Initially, there will be a slight increase on the fees charged for the storage and retail units in line with the legislation and the standard of operational and services offered by the market service vs the previous owner/operator. All increases/decreases in permanent & temporary trading fees have been subjected to benchmarking against other local authority run market services to ensure we are still offering value of money to our service users, whilst recovering costs that are attributed with delivering the service.

6.5.16 All permanent fees are based on similar profile market boroughs and styles of markets such as 7 days a week or singular days such as Sat/Sun only and



*Tower Hamlets have reduced fees across 9/10 of its markets due to a 47% decline in occupancy over the last 24 months.

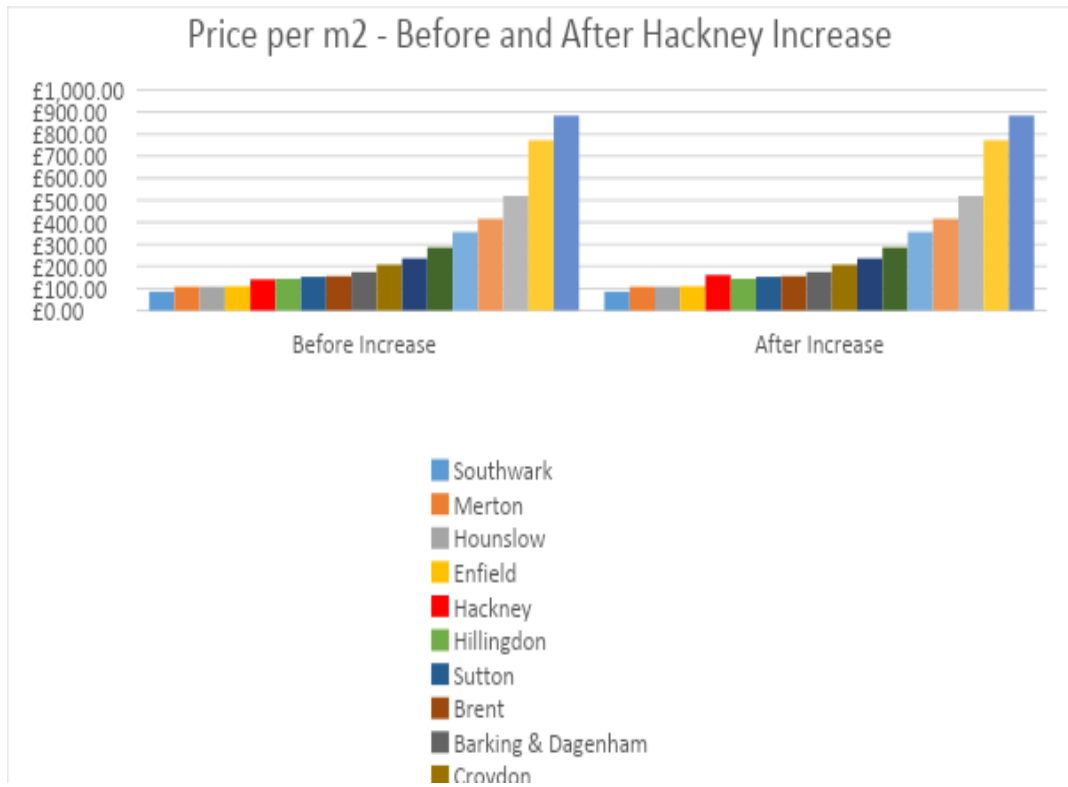
all Temporary/Casual fees are based on similar profile market boroughs and styles of markets such as 7 days a week or singular days such as Sat/Sun only.



*All fees are based on the available data. Some of the fees listed above are averages where fees vary (depending on location, etc.).

6.5.17 The benchmarking graphs show the proposed fees and charges and highlights that Hackney council remains highly competitive by comparison to similar London council markets offering pitches from as little as £8 a day. Included in these fees are all of the additional services traders benefit from such as Trading Places training and development courses, provision of stall hire/set up and take down, events and social media marketing for all sites within the portfolio. This is above and beyond the council’s statutory licence issuing duties and what other local authorities provide for the same or similar fees. This continues to make Hackney an attractive borough for new startups and existing traders to expand their enterprises.

6.518 When benchmarking our m² proposals for year two to three against the other London boroughs, the graph below highlights both before and after the fee changes we still offer a low cost way of expanding your business and sit within one of the cheapest places in London to shop front trade.



6.5.19 Utilising Part III of The Food Act 1984 to underpin all licences issued within the indoor operation affords the Council a number of advantages in regards to how it generates income from this location as there is no requirement for consultation or public approval on rentals and there is only a requirement to provide 30 days written notification of fees changes and these can be reviewed every 12 months. In addition revocation and removal of any licence holder does not end up with the Council facing an expensive visit to the magistrates court but rather a judicial review that must be paid for by the applicant , in this case the licence holder.

6.5.20 The Service could potentially support any financial shortfall from the markets account as overall demand and exponential growth in market trading within the borough will provide sustainable income as a minimum, coupled with the insourcing of stall logistics that permanently reduces ongoing operational costs.

6.5.21 Achieving maximum occupancy

6.5.22 The Service has developed a trader recruitment plan to fill all retail units to ensure that the site will operate at full capacity and to ensure that a waiting list for the site is in place adopting the same processes that are used for sites such as Broadway Market. This market already operates at 100% capacity and has a waiting list in excess of the number of available stalls. Given that there is no low cost alternative to bricks and mortar for existing street traders

or new enterprises to graduate into, the Council essentially has a wide customer base already licensed to support graduating into one of these units as a stepping stone to expand their business. There is low risk that this proposal will see Ridley competing with other markets such as Broadway and either market suffering cannibalisation as they are very different retail offers. Broadway attracts aspirational customers looking for artisan produce and Ridley Road primarily serves the local community with good quality and very affordable staples alongside the vast range of world goods that it is famous for and not available in supermarkets.

6.5.23 Also built into the plan is the fact that the units can easily be modified to make them larger or smaller by absorbing either the adjacent units or turning the larger units into multiple smaller ones. This provides the service with flexibility to tailor offers to what the market requires or what is essentially in demand to ensure we meet rental commitments.

5.5.24 There is a risk that the model could fail either through a lack of traders willing to trade within the indoor market or an economic crash following Covid-19. In this event there is a seven year break clause in the lease that can be executed to withdraw. However, as set out above and from experience of the Market Service in the last few years, the demand for this type of trading opportunity is buoyant and the risk of this occurring is assessed as very low. If this were to occur then a multi service response would be needed involving the Markets Service, Strategic Property Services, Communications and Regeneration to manage the withdrawal and subsequent ending of the lease.

7. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

7.1 The recommendation to acquire the lease at 51-63 Ridley Road presents the Council with an opportunity to support local small businesses, regenerate a much valued market with the borough and reduce the incidence of antisocial behaviour in the area. Financial modelling of the investment opportunity demonstrates that at circa 90% occupancy the property will deliver a small annual surplus as follows:

	Income	Costs	Surplus/ (Deficit)	Surplus/ (Deficit) with 10% reduction in assumed occupancy rates
Year 1	320	315	5	(27)
Year 2	381	455	(74)	(112)
Year 3	562	459	103	46
Year 4	576	463	112	55

Year 5	590	500	91	32
Years 6 - 15	6,778	5,240	1,538	860
Full Lease Period	9,207	7,433	1,774	853
Average Surplus/(Deficit)			118	57

- 7.2 The modelling is based on increasing the unit rental for existing and new tenants by 5% in year one - to reflect the refurbishment of the market and the permanent presence of the Markets Team on the site. The fee structure will then be reviewed in year two with a view to introducing a £ per m2 structure similar to the charging for shop front trading to ensure the larger the unit the higher the fee charged. The plan would be to implement the revised fee structure in year three. From year four onwards the charges will be increased by CPI each year in line with the Council fees and charges policy.
- 7.3 In terms of costs, a 6 month rent free period from the start of the lease has been negotiated to reduce and mitigate risk of carrying over additional costs of the operation and to provide time to fill units before the full rental costs are applied. The rental charge has been uplifted from year five in accordance with the terms of the lease, with CPI estimated at 2.5% per annum. The service charges, repairs and maintenance costs, and staffing costs have also been uplifted by CPI.
- 7.4 The modelling has shown that this investment could deliver a surplus for the Council if the pricing structure is remodelled for implementation in Year 3. It is the intention of the Head of Parking and Markets to carry out a review of the pricing structure for the indoor market in year two for implementation in year 3. The financial modelling has been based on a 90% occupancy rate for the ground floor retail units and a 100% occupancy rate for the storage units. A 10% reduction in the assumed occupancy rates will still deliver a surplus. When the occupancy rates reduce to 70% there will be a significant deficit over the first five years though there the deficit over the lease term will be significantly smaller. The target occupancy rate for the property is 100% but, at levels approaching 80% occupancy, swift management action should be taken to ensure the investment maintains a break-even position.
- 7.5 As part of acquiring this lease the Markets Team will relocate to this site and a saving of £17K in terms of premises costs through the release of the existing Markets office will be made from 2023/24.
- 7.6 There are also non-financial benefits expected to flow from entering into this lease in terms of reduced antisocial behaviour in and around the site. Through

the refurbishment of the building, increased occupancy and footfall and the onsite presence of the Markets team.

7.7 VAT Implications on Land & Property Transactions

The Rent and Service Charge will be subject to VAT and the Council will need to recover this.

8. COMMENTS OF THE DIRECTOR, LEGAL & GOVERNANCE SERVICES

8.1 The decision to acquire a lease for a term greater than 7 years is taken by Cabinet and the Mayor as per the Mayor scheme of delegation.

8.2 S120 of the Local Government Act 1972. This section enables the Council to acquire by agreement any land for the purposes of discharging any of the Council's functions or for the benefit, improvement or development of its area. The Council may exercise this power whether or not the land acquired by agreement is immediately required for the intended purpose and the Council may use the acquired land in the interim for the purpose of discharging any of its other functions.

8.3 Under Section 1 of the Localism Act 2011, the general power of competence, the Council has power to do anything that individuals with full capacity generally may do

APPENDICES

Appendix 1 - Plans of the Property shown edged in red.

EXEMPT

Appendix 2 - Heads of Terms

Appendix 3 - Covid Impact Footfall and Basket Spend

Appendix 4 - Graph for 2021 Covid Income

Appendix 5 - Ridley Road Market: Usage & Attitudes Survey 2020

Appendix 6 - Ridley Road market Income

The Appendices are confidential as they are part of the potential landlord's assets and/or were part of the negotiations which were held in confidence.

BACKGROUND PAPERS

In accordance with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012

publication of Background Papers used in the preparation of reports is required

Description of document (or None)

None

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