

<b>Subject:</b>	<b>Marina Lease</b>		
<b>Date of Meeting:</b>	<b>8 October 2020</b>		
<b>Report of:</b>	<b>Executive Director Culture Economy &amp; Environment</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Katharine Pearce</b>	<b>Tel: 01273 292553</b>
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE**

**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The council's property and regeneration teams have been in negotiation with Brighton Marina Company Ltd to surrender part of their head lease back to the council to facilitate the works proposed to the Black Rock site, which are due to commence in October 2020.
- 1.2 In response to the council's request for part surrender of the head lease the Brighton Marina Company Ltd have requested an extension to their head lease of the marina from the remaining 135 years to 250 years, an extension of 115 years.
- 1.3 In order to secure the part surrender from the headlease to meet the timetable requirements of the Black Rock works and to secure the LEP funding it has been necessary to agree terms with the Brighton Marina Company Ltd for the proposed lease extension at less than best consideration.

**2. RECOMMENDATIONS:**

That the Committee authorises:

- 2.1 The acceptance of a surrender of part of the Marina headlease back to the council to realise the regeneration benefits of the Black Rock project.
- 2.2 The grant of a lease extension on terms set out in Part 2 of this report.

**3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 The Brighton Marina Company Ltd (BMCo) were originally granted a headlease for 125 years from 1980. In 2005 the headlease was extended by 50 years. There are 135 years remaining of the extended headlease.
- 3.2 The council needs to progress with the Black Rock project and in order to do so requires BMCo to surrender a piece of land out of the headlease to facilitate the extension of the sea wall. In addition, the council requires BMCo's agreement to licences required to allow the council to complete works within BMCo's demise.

- 3.3 The Black Rock project is a major strategic regeneration project for the eastern seafront which will have far reaching financial benefits both in the medium and long term. A recent report from Colliers for the Local Enterprise Partnership has shown that the remediation of the site to make it available for interim uses (so not counting the positive impact of a long-term major regeneration project) will generate social value benefits to the tune of £1m in jobs and economic growth, over £5m of benefits to health, wellbeing and the Environment, and over £2m of community benefits.
- 3.4 The position of the council is therefore influenced by the drive to proceed at pace with delivery of the £12m Black Rock project as works are due to commence in October. If the Council is not able to proceed with the Black Rock project for any reason, the funding provided by the Local Enterprise Partnership will be withdrawn and the regeneration benefits lost.
- 3.5 BMCo are agreeable in principle to the surrender of part of their headlease at nil premium and in return require the council to grant an extension to their headlease of an additional 115 years to provide them with a 250 year term. The 250 year term will provide them with the following benefits:
- The ability to extend existing residential longleases without the need for the residential longlesses to enact the statutory process.
  - The ability to grant longer residential subleases on residential units not yet constructed, for greater value.
  - The flexibility on timing of future residential development, as under their existing headlease, of which 135 years remain, BMCo do not have flexibility on timing if they are to complete construction and grant residential long leases with a marketable term. The Marina is a key site for delivering homes in the City Plan, so it is strategically important to allow BMCo to deliver those homes
  - The flexibility in the future to consider redevelopment of the commercial areas of the marina and realise further value of these parts currently held on a sublease which expires in 2105.
- 3.6 Despite protracted negotiations, the city council and BMCo are not able to agree inputs for valuation of the lease extension. The two parties disagree about the value of the lease extension, with the difference being in the region of £1m. However, if we were not able to come to an agreement then the city council would not be able to implement the works to Black Rock and the £12m of LEP investment would be lost. This investment in a key part of the city's seafront is fundamental to the regeneration of the east of the city and will deliver a site that is ready for significant development, and which in the interim period can enable events and act as amenity space for local residents.
- 3.7 In addition, the granting of an extended lease to BMCo is a necessary step towards the Marina being able to deliver the significant number of new homes that the City Plan envisages for what is one of the most significant development areas in the city. The government's planning reforms are increasingly putting an emphasis on local authorities enabling new home building, or our ability to

determine key planning decisions at a local level will be lost. Furthermore, increasing overall housing supply is an important factor in reducing housing costs.

- 3.8 Therefore the terms for the lease extension presented in Part 2 of this report are those put forward by BMCo. It is the view of the council's valuer that these do not meet best consideration requirements of the Local Government Act 1972, however they do fall within the General Consent allowing Local Authorities to dispose of land at an undervalue of less than £2million to secure the promotion or improvement of the economic, social or environmental well-being of its area.

#### **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 The council could choose not to proceed with the lease extension at this time. This would result in a loss of funding for the Black Rock project as BMCo would withdraw any consent for development and not surrender the land required. The £12m of LEP investment to make this a development ready site would be lost.

#### **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 None required

#### **6. CONCLUSION**

- 6.1 It is not uncommon with regeneration projects for land to be sold at less than best consideration or in this case, for a lease valuation to come in at less than best consideration. The council needs to consider the broader picture in this instance and ensure that the many financial and regeneration benefits – including a significantly higher land receipt if it were to dispose of the completed Black Rock site. is taken into account when assessing the acceptability of these terms.
- 6.2 The value of the Black Rock site will be “lifted” by a sum which is at least 10 times the sums that could be achievable for the Marina lease under best consideration. The lease will allow the Brighton Marina Co to progress their plans for the Marina and this, in addition to the works at Black Rock, will assist with the wider regeneration of the area.

#### **7. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 7.1 The proposed surrender of part of the Marina headlease and granting of an extension will enable £12m investment into the Black Rock project funded from Coast to Capital Local Enterprise Partnership grant. The lease extension is expected to be granted at less than best consideration with a capital receipt forgone of approx. £1m. The council's medium term financial strategy did not include any receipts from negotiating this lease extension.

*Finance Officer Consulted: Name James Hengeveld Date: 24/09/20*

### Legal Implications:

- 7.2 With reference to recommendation 2.1, the surrender of part by a tenant to its immediate landlord is a consensual arrangement between the landlord and the tenant. The Council's tenant Brighton Marina Company, subject to the Council first agreeing to extend their current lease by 115 years is willing to surrender an area of land contained within its lease. The latter lease extension would in effect be a disposal. Section 123 of the Local Government Act 1972 enables a local authority to dispose of land provided it achieves the best consideration reasonably obtainable. Paragraph 3.8 of this report confirms that the best consideration requirements would not be met. The Local Government Act 1972 General Disposal Consent (England) 2003 does permit a local authority to dispose of land at an undervalue capped at £2 million provided the disposal will help secure the promotion or improvement of the economic, social or environmental well-being of its area. Paragraph 3.3 and 3.7 confirms that the disposal will result in both economic and social benefits to City in the form of jobs and housing.

Lawyer Consulted:

Joanne Dougnaglo

Date: 21/09/20

### Equalities Implications:

- 7.3 This deal will enable the regeneration of the Black Rock site. The equalities implications of interim uses and any long term development proposals will be considered at the time of determining those uses.

### Sustainability Implications:

- 7.4 This deal will enable the LEP funding to be spent on cleaning up contamination on the site.

### Brexit Implications:

- 7.5 None identified.

### Crime & Disorder Implications:

- 7.6 The existing Black Rock site suffers from break ins and is a location for anti-social behaviour. The regeneration of this site that this deal will enable will ensure the area is better used and less likely to attract such behaviour.

### Risk and Opportunity Management Implications:

- 7.7 None that are not included in the main body of the report.

### Public Health Implications:

- 7.8 The regeneration of the Black Rock site that this deal will enable will result in a space that can be used for active leisure activities, as well as for use as an events space with the room to operate in a more Covid-secure way.

Corporate / Citywide Implications:

- 7.9 The conclusion of the agreement, by supporting future development of the Black Rock site will support the council's strategic priorities for the seafront.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. None

**Background Documents**

1. [Black Rock Enabling Works report to Policy & Resources Committee, 5<sup>th</sup> December 2019](#)

