

Report to Cabinet

1 September 2021

Subject:	Premises 106/107/108 High Street, West Bromwich – Approval to accept surrender of lease prior to the break date of 30 th June 2024
Cabinet Member:	Councillor Iqbal Padda Cabinet Member for Strong and Inclusive Economy
Director:	Interim Director for Regeneration and Growth Tammy Stokes
Key Decision:	Yes
Contact Officer:	Stefan Hemming - Principal Lead Commercial Property stefan_hemming@sandwell.gov.uk

1 Recommendations

That Cabinet

- 1.1 Authorise the Interim Director of Regeneration and Growth to conclude negotiations with the lessee's agents to agree a surrender premium for a surrender of the lease of 106/107/108 High Street, West Bromwich with effect from 10 September 2021.
- 1.2 That in connection with 1.1 above, authorise the Director Law and Governance and Monitoring Officer to prepare and agree formal surrender documents to allow the Council to obtain vacant possession of the premises.
- 1.3 Authorise the Director of Finance to make an adjustment to the income target for Strategic Assets and Land to reflect the loss of income.



2 Reasons for Recommendations

- 2.1 An opportunity has arisen to obtain vacant possession of 106/107/108 High Street West Bromwich, currently owned by the Council and leased to Argos on a lease which runs to 2029. By taking the opportunity to obtain vacant possession now the Council will avoid significant costs in having to acquire a leasehold interest later. Vacant possession of the properties is highly likely to be necessary to relocate the indoor market and to deliver the emerging West Bromwich Masterplan.
- 2.2 Should a surrender not be pursued at this stage then we understand that Argos will pursue plans to sublet the property. If the Council then wishes to obtain vacant possession before the lease expires in June 2029 it will be necessary to agree terms with the subtenant and with Argos and this is likely to involve the payment of significant premiums to them.
- 2.3 Whilst the opportunity to take a surrender of the lease has arisen earlier than ideal (i.e. before a full business case has been prepared for the market relocation) it is clear that this is a time-limited opportunity and that obtaining possession at a later date will be much more difficult and much more expensive.

3 How does this deliver objectives of the Corporate Plan?

	<p>A strong and inclusive economy</p> <p>The surrender of the lease by Argos could assist the delivery of a new indoor market facility located within the premises that are in the freehold ownership of the Council. It will re-energise the current failing market and protect businesses suffering the current disconnect between the indoor and outdoor markets.</p>
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4.0 Context and Key Issues

Background

- 4.1 A Masterplan for West Bromwich Town Centre is currently being prepared which aims to address the economic challenges being experienced in the retail sector. The aim is to create a vibrant mixed-use town centre which is economically sustainable, and this means focusing on high quality retail, leisure and cultural activities that will drive footfall whilst also introducing new uses including residential, together with high quality public spaces. Consultation for the masterplan commenced 22 July and public consultation will continue until 20 August 2021. Thereafter, it is anticipated that the the preferred option will be submitted to Cabinet during November 2021.
- 4.2 A central element in the masterplan will be the relocation of the indoor market to a more central location where it can benefit from, and also contribute to, an increased level of footfall.
- 4.3 The new indoor market is a critical element of the Retail Diversification Programme which forms part of the Council's Towns Fund programme. This programme initially focuses on: Bull Street (incorporating the Queen Square Shopping Centre) and the Kings Square Shopping Centre (incorporating the Indoor Market and former Kings Square Cinema). This equates to circa 4.4 ha of land for regeneration. The programme aims to kickstart regeneration and transformation of the West Bromwich retail submarket through site assembly and demolition.
- 4.4 The current indoor market in the Kings Square Shopping Centre was opened in 1973. It has served visitors and residents of West Bromwich for over forty years. Whilst there has been some maintenance work, including electrical rewiring, new floor surfaces, painting and the creation of a new entrance, the building has remained substantially unchanged since it was opened. Although the market still has a loyal customer base and a good range of trade lines to attract customers, the number of vacant stalls has been increasing in recent years and, therefore, the income to the Council from stall rents has been steadily declining.
- 4.5 In 2018 the council undertook a review of the indoor market which concluded that the existing facility is not fit for purpose and that options should be explored to redevelop it to recover its commercial viability.



At a cabinet workshop on 16th May 2018, cabinet members agreed that an indoor market should be retained in West Bromwich but that it must be sustainable and contribute to the broader regeneration of the town centre. Officers then explored several options for the development of the existing site including a new modern building with food, leisure and cultural uses, managed workspace and residential above, but no viable scheme could be identified.

- 4.6 Specialist consultants will soon be procured to prepare a detailed business plan for a new, relocated indoor market. Drawing on local knowledge as well as best practice from elsewhere, this business plan will detail how the new indoor market will operate and how it will contribute to the vision of a vibrant and economically sustainable town centre.
- 4.7 Whilst this business plan is still to be prepared, it is clear from discussions with market traders, with the market managers and also with the appointed masterplanning team, that relocating the indoor market to 106/107/108 High Street is a strong option. The market traders have specifically expressed a desire to locate to a High Street location close to the outdoor market, and the Argos premises has been specifically referenced by traders as their preferred location.
- 4.8 Obtaining vacant possession of 106/107/108 High Street is strategically important to the delivery of the proposed Masterplan. A key aim of the Masterplan is the creation of a pedestrian route leading from the Metro station into a new public space and meeting point at the heart of the retail area – effectively creating a new gateway to the town centre for people arriving by Metro. This is shown on the plan in Appendix 2. The subject properties sit immediately adjacent to this space, and by obtaining vacant possession and by ensuring that the most suitable uses go into these units (whether that be the indoor market or, if the business case is not approved, another appropriate use) the Council will ensure that this key aim is achieved.
- 4.9 Obtaining vacant possession of town centre property for regeneration purposes is usually difficult and expensive.



It often involves using compulsory purchase powers to acquire leasehold interests and relocate retailers and it almost always involves paying out substantial amounts of compensation to cover business relocation costs. The only time when this isn't the case is when property is already vacant or when councils have, in anticipation of regeneration plans, been opportunistic in acquiring properties when they come to the market or accepting lease surrenders from tenants when approached by the tenant.

Property Ownerships and Lease Negotiations To Date

- 4.10 The Council own the freehold of premises 103 to 108 High Street West Bromwich. The current indoor market is shaded grey on the plan. 103 is currently vacant; shaded blue on the plan. 104 -105 is currently occupied by the Council's Revenues and Benefits and Cashiers Services; shaded orange on the plan. 106/107/108 are on a 10 year lease to Argos; shaded pink on the plan.
- 4.11 The Argos lease of 106/107/108 is for a term of 10 years from 1st July 2019. It is on internal repairing terms and the passing rent is £75,000 plus service charge. Business rates of £61,461.04 per annum are payable. There is a tenant's only break option included within the lease that can be exercised (by the tenant) on 1st July 2024 subject to the service of not less than 6 months formal written notice.
- 4.12 Sainsbury's acquired Argos in 2016 and as part of its property portfolio rationalisation programme has closed a number of Argos stores or located them within Sainsbury's superstores. Avison Young, acting on behalf of Argos, approached the Council to determine if there is an appetite to accept an early surrender of the lease of 106/107/108. They initially offered to pay the council a premium of £90,000 but following negotiation this was increased to £140,000 as a one-off payment in respect of rental, business rates and in lieu of a schedule of condition.
- 4.13 Avison Young on behalf of Argos have confirmed the offer is open until 10th September 2021.



They have also confirmed that they have received expressions of interest from local traders to take an under lease of part of the space and are preparing heads of terms with two interested parties, which they will progress if the Council does not accept the surrender.

- 4.14 There have been discussions internally with the Council service in 104 105 about a remodelled service as part of the proposals but these are at an early stage.
- 4.15 The existing indoor market site would, if vacated, create a regeneration opportunity which would be brought forward as part of the masterplan delivery. It would play a key part in improving pedestrian links to the town centre from the West Bromwich Central Metro Stop, which is a key aim of the masterplan. The timing of the move, the timing of redevelopment and the possibility of short-term uses of the building prior to redevelopment will all be considered in parallel with the production of the business plan.

Financial Implications and Risks

- 4.16 If Argos were to continue in occupation until the tenant's break in June 2024 then rent in the sum of circa £225,000 (ie £75,000 per annum) would be received, and in addition business rates would be payable in the sum of £184,383 (ie £62,464 per annum). This revenue income will be lost if the surrender proceeds as recommended. [Note that this break is a Tenants break, and if they did not choose to exercise it then they would remain in possession until 2029].
- 4.17 If SMBC chose not to accept the surrender, given Argos's stated wish to vacate, it is highly likely that they would exercise their break in 2024 in which case the rental and business rate income would be lost to SMBC at that stage. If the properties were underlet, or if they could be re-let, then this income might be reinstated but this is not certain at this stage.
- 4.17 Avison Young have indicated that the premium sum of £140,000 is their final offer. The figure equates to just under two years rental income.



- 4.18 It is anticipated that the market will be relocated within two years, although this depends on a satisfactory business plan being prepared and approved by Cabinet. Assuming that it takes two years before the new market is occupied and income-producing, the rental income and business rates that the Council would forego up to that point would total £274,928. This would be partly offset by the £140,000 premium received from Argos but a £134,928 deficit would remain. It might be possible to secure a short-term letting of the units in order to reduce this deficit; (Avison Young on behalf of Argos have provided evidence of two proposed short term underlettings that they have been negotiating for Argos, one at £1500 pcm on a rolling 4 week agreement, the other for £60,000 per annum on a more permanent lease arrangement). If the surrender proceeds then efforts will be made to secure a letting for circa 1 year on terms that will help reduce the deficit whilst not hindering the programme for the market relocation.
- 4.19 External advice has been obtained from Savills, and their recommendation is that the Council should proceed with the surrender on the terms agreed.
- 4.20 The Council has recently been awarded £25m Towns Fund. This is subject to a Full Business Case (due November 2021). Subject to this and subject to Cabinet approving the business case for the market relocation it is anticipated that the cost of relocating the market will be met by the Towns Fund.
- 4.21 In the event that the business plan for the relocation of the market is not satisfactory and Cabinet does not approve the market relocation, the units would be re-marketed and alternative high quality occupiers would be identified which would support the Masterplan objectives.

5 Alternative Options

- 5.1 The Council could decline to accept the offer of a surrender at this stage and delay the decision until the West Bromwich Masterplan is approved and a full business case is developed for the market relocation.



However in this scenario Argos would almost certainly assign the lease or sublet, and a new occupier may be unwilling to surrender. Negotiations to obtain early vacant possession would then involve the Council paying a premium rather than receiving one, if indeed terms could be agreed at all.

- 5.2 The Council could consider acquiring another similar property in the town centre for the new indoor market. This would involve negotiating with property owners and tenants and would involve the Council paying premiums to tenants rather than receiving one.
- 5.3 The Council could consider the construction of a new market hall on an alternative site as part of the masterplan. This would inevitably be more expensive and might damage the viability of the masterplan as it would displace alternative uses eg residential or leisure.

6 Implications

Resources:	Accepting a surrender of the lease from 10th September 2021 at a premium of £140,000 will provide certainty of income and business rates for 12 months. Thereafter and until such time the indoor market is relocated there will be a loss of income and a business rate liability.
Legal and Governance:	A future Cabinet report will be submitted outlining the full business case to commence the relocation of the indoor market.
Risk:	<p>The risk of not progressing the matter at this stage is that the opportunity may pass and should the Council decide after it business planning this is the preferred location, a reverse premium would have to be paid to the lessee's Argos to encourage them to provide vacant possession. This would incur further expense to the Council.</p> <p>If the indoor market relocation does not proceed then the premises will be re-marketed and a new tenant identified. However given the deterioration of retail rental values this could be at a lower rent than that currently paid by Argos.</p>



Equality:	Any development of the site is subject to planning approval, and as such customers and stakeholders will be consulted.
Health and Wellbeing:	No Implications
Social Value	<p>Markets contribute to social interaction and social inclusion and can be viewed community hubs, community spaces and ‘people’s places’, as crucial parts of communities.</p> <p>Traders describe markets as a social gathering, a social event, a day out, a meeting place and create an attraction and reason to visit town centres.</p>

7. Appendices

1. Location plan
2. Masterplan extract

8. Background Papers

None

