

**A separate report is submitted in the private part of the agenda in respect of this item, as it contains details of financial information required to be kept private in accordance with Schedule 12A of the Local Government Act 1972. The grounds for privacy are that it contains information relating to the financial and business affairs of any particular person (including the authority holding that information). The public interest in maintaining the exemption under Schedule 12A outweighs the public interest in disclosing the information.**

Cabinet  
Council

1<sup>st</sup> December 2020  
8<sup>th</sup> December 2020

**Name of Cabinet Member:**

Cabinet Member for Jobs and Regeneration - Councillor J O'Boyle

**Director(s) Approving Submission of the report:**

Director of Property Services and Development

**Ward(s) affected:**

St Michael's

**Title:**

Surrender of lease on premises in Upper Precinct, Coventry

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**Is this a key decision?**

Yes – the expenditure to be approved pursuant to this report will be in excess of £1 million pounds

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**Executive Summary:**

This report is seeking approval to accept the surrender of an existing 75 year lease for the Ernest Jones premises in the Upper Precinct, Coventry. The surrender of the lease will allow the Council to implement phase two of the public realm scheme in the Upper Precinct through the demolition of the current premises and the completion of the scheme.

The Council will be paying a surrender premium to the proprietors of the Ernest Jones premises, writing off a sum of rental arrears (as highlighted in the private version of this report) and will be forgoing rental income of £137,000 per for the rest of the lease term. This report seeks approval for the funding to enable the surrender to occur, approval to write off the relevant rental arrears and the adjustment to the Council's income target resulting from the surrender.

**Recommendations:**

Cabinet is recommended to:

- 1) Agree to accept the surrender of the Lease and the entry into of all associated legal agreements between the Council and Signet (Ernest Jones Limited) for the premises (as shown edged red on the plan in Appendix 1).
- 2) Delegate authority to the Strategic Lead - Property and Development, following consultation with the Finance Manager, the Director of Law and Governance and the Cabinet Member for Jobs and Regeneration, to undertake the necessary due diligence and approve the final terms of the surrender.

Cabinet is requested to recommend to Council to:

- 3) Approve expenditure, of the sum as highlighted in the private version of this report, from reserve balances to fund the premium required to be paid for the surrender of the lease.
- 4) Note the loss of rental income incurred in the delivery of this proposal that will form part of the forthcoming budget setting report.

Council is recommended to:

- 1) Approve expenditure, of the sum as highlighted in the private version of this report, from reserve balances to fund the premium required to be paid for the surrender of the lease.
- 2) Note the loss of rental income incurred in the delivery of this proposal that will form part of the forthcoming budget setting report.

**List of Appendices included:**

Appendix 1 - Site Plan

**Background papers:**

None

**Other useful documents:**

Public Realm Phase 5 Cabinet Report – 6<sup>th</sup> March 2018;

<https://edemocracy.coventry.gov.uk/documents/s37367/Public%20Realm%20Phase%205.pdf>

**Has it been or will it be considered by Scrutiny?**

No

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

Yes – 8<sup>th</sup> December 2020

**Title:** Surrender of lease on premises in Upper Precinct, Coventry

**1. Context (or background)**

- 1.1. In March 2018, Cabinet and the Council approved the funding and delivery of Public Realm Phase 5 to transform the public realm within the city centre both in preparation for UK City of Culture 2021 and Birmingham Commonwealth Games 2022 and the delivery of a legacy for the residents and businesses of Coventry.
- 1.2. A key part of Public Realm Phase 5 is the £44m Retail Quarter scheme which will transform the heart of the city centre through the creation of the highest quality sustainable, landscaped public spaces. The demolition of the Ernest Jones premises will enable the full completion of the Retail Quarter scheme and allow the sight lines to the cathedral area to be opened back up, restoring the original view and creating a better city centre environment.
- 1.3. The subject property is located between the Upper Precinct and Broadgate with part of the premises including a ramped area to a first-floor walkway surrounding the Upper Precinct.
- 1.4. The property is held by way of a long leasehold from Coventry City Council for a term of 75 years from the 8<sup>th</sup> January 1982 and will expire in January 2057. A rent of £137,000 per annum is currently payable. The rent is subject to upward only review every five years.
- 1.5. The proprietors of the Ernest Jones premises (Signet / Ernest Jones Limited), have agreed to surrender their lease in return for a surrender payment, as well as the writing off of a portion of their rental arrears up to the point of surrender (as highlighted in the private version of this report), that is the subject of this report.

**2. Options and recommended proposal**

**2.1. Option 1. To not agree to the surrender of the lease**

- 2.1.1. If the Council were to not proceed with the proposal that is the subject of this report, then the second phase of the Retail Quarter scheme would not be able to be delivered. This would be sub-optimal in placemaking terms and the overall scheme would feel compromised.
- 2.1.2. Although the closure of a business such as Ernest Jones is a loss to the city, given the Council's placemaking and economic development ambitions for the city, its residents and businesses together with the need to support the post-COVID recovery of the city, not delivering this proposal would run contrary to the Council's strategic objectives for the city centre. For these reasons, this option is not recommended.

**2.2. Option 2. To agree to the surrender of the lease**

- 2.2.1. To facilitate the delivery of a comprehensive public realm scheme for the Upper Precinct and meet our wider ambitions for the city centre it is recommended that the Council agrees to the surrender of the lease and the funding required for the premium payment and the additional public realm works.
- 2.2.2. **Key benefits for the city**
  - 2.2.2.1. By agreeing the surrender of the lease, the Council will be able to move seamlessly from the first phase of the Retail Quarter scheme to phase two, minimising disruption and reducing the overall delivery programme.

- 2.2.2.2. The city centre will benefit from improved accessibility and flow for residents and visitors in the spaces between Broadgate and the Upper Precinct
- 2.2.2.3. The removal of the Ernest Jones building will enhance sight lines and enable greater footfall and visual appeal for businesses either side of Upper Precinct and Broadgate. The installation of the new water features and fountains in Upper Precinct will further enhance these views, reinforcing the world class city centre placemaking approach.
- 2.2.3. Delivery
- 2.2.4. Diversion of statutory undertakers' apparatus, in the vicinity of the ramp and Ernest Jones store, will be completed by late January 2021.
- 2.2.5. This will then facilitate the demolition of the ramp, Ernest Jones store and the Eastern Walkway in sequence by Spring 2021. The logistical route for all associated operations will need to be through Broadgate, in order to align with requirements for City of Culture 2021/22.
- 2.2.6. Following completion of all demolition activities, the Upper Precinct North and South balcony parapet rails will be extended to Mercia Lodge and Broadgate House respectively. The central footprint area will be fully re-constructed, and all paving laid, between Broadgate House and Mercia Lodge, during Spring 2021.
- 2.2.7. Pedestrian routes between Broadgate and Upper Precinct will be maintained at all times. Operations will take place at daytime with minimal anticipated out of hours works and will be undertaken in accordance with Environmental restrictions.
- 2.2.8. Costs
- 2.2.9. The funding required for the diversion of affected statutory undertakers' apparatus, demolition (ramp/Ernest Jones store/Eastern walkway), parapet rail extension and paving will be provided in full, from the Public Realm 5 programme budget.

### **3. Results of consultation undertaken**

- 3.1. Formal public consultation on the public realm proposals were undertaken as part of the planning application process for the works during 2018.

### **4. Timetable for implementing this decision**

- 4.1. Subject to Cabinet and Council approval, the conclusion of negotiations with the proprietors (and their Board's approval to the final terms of the surrender) and the vacant possession of the premises by the end of January 2021, the works will proceed in accordance with the timescales outlined in in Section 2.2.3 above.

### **5. Comments from the Director of Finance and the Director of Law and Governance**

#### **5.1. Financial implications**

- 5.1.1. The surrender of the lease in Upper Precinct will have the impact of reducing the rental income received by the Council's Commercial Property team, and also forgoing the business rates applicable to the property. The income loss will be incorporated into the forthcoming budget setting report.

- 5.1.2. Capital works costs will be accommodated in full, from the Public Realm 5 Programme budget.

## **5.2. Legal implications**

- 5.2.1 Section 1 of the Localism Act 2011 provides a “general power of competence” for local authorities, defined as “the power to do anything that individuals generally may do” and which expressly includes the power to do something for the benefit of the authority, its area or persons resident or present in its area.
- 5.2.2 The Council has the power to acquire land by agreement under section 226 of The Town and Country Planning Act 1990 if the Council thinks that the development is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of their area. The decision to accept the surrender of the lease for Ernest Jones fits within the remit of this power and section 2.2.2 of this report clearly sets out the benefits which underpin the reasons for the recommendation set out in this report.
- 5.2.3 Members are under a fiduciary duty to act prudently, responsibly, in a business-like manner and in their view of what constitutes the best interests of the general body of local taxpayers. The general requirement in administrative law is that that a local authority decision must be rational, authorised by law and must take account of all relevant considerations, whilst ignoring any irrelevant ones. Members are therefore encouraged during their discussion to satisfy themselves that their decision complies with this duty (e.g weighing up the options including the key benefits of the proposals for the city and coming to the conclusion that the recommendations set out in this report constitutes the best interest of the general body of local taxpayers)

## **6. Other implications**

### **6.1. How will this contribute to achievement of the Council's Plan?**

- 6.1.1. The delivery of the scheme outlined in this report will deliver a range of placemaking objectives that will help to realise the Council's strategic ambitions for a more vibrant and economically prosperous city.

### **6.2. How is risk being managed?**

- 6.2.1. Advance discussions are underway with all statutory undertakers, in order to allow sufficient time for planning and completion of required diversions by late January 2021.
- 6.2.2. Collaborative planning workshops have been held with Eurovia and the demolition sub-contractor in the development of the proposal detailed in Section 2.2.3.
- 6.2.3. The logistical route for all operations is planned through Broadgate in order for the works to be delivered as a stand-alone package and without an impact on the Public Realm works already underway in Upper Precinct.

### **6.3. What is the impact on the organisation?**

- 6.3.1. The main impact to the organisation will be the loss of income to the Council's commercial property portfolio.

#### **6.4. Equalities / EIA**

6.4.1. Section 149 of the Equality Act 2010 requires the Council in the exercise of its functions to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and other form of conduct prohibited under the act; and,
- to advance equality of opportunity and to foster good relations between persons who share a relevant protected characteristic (age, disability, gender re-assignment, pregnancy and maternity, race, religion and belief, sex, and sexual orientation) and persons who do not share it.

6.4.2. Having regard to the need to advance equality of opportunity between persons who share relevant protected characteristics and persons who do not share it involves having due regard, in particular, to the need to:

- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- take steps to meet the needs of the persons who share that characteristic that are different from the needs of persons who do not share it; and,
- encourage persons of the relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

6.4.3. The Equality Duty has been considered and it is felt that an Equalities Analysis is not required as the proposal concerns the surrender of a leasehold interest and additional public realm works and as such no Council service or group will be impacted.

#### **6.5. Implications for (or impact on) climate change and the environment**

6.5.1. The demolition resulting from the surrender of the lease will be managed in accordance with the Council's environmental management policies.

#### **6.6. Implications for partner organisations?**

6.6.1. There are no implications for any partner organisations.

**Report author(s):**

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