



CABINET: 10 January 2017

COUNCIL: 22 February 2017

Report of: Director of Development and Regeneration

Relevant Portfolio Holder: Councillor I Moran

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SUBJECT: PROPOSED SURRENDER AND RENEWAL OF THE SILVER BIRCH PUBLIC HOUSE, FLORDAN

Wards affected: Birch Green Ward

1.0 PURPOSE OF THE REPORT

- 1.1 To seek authority to take a surrender of the existing lease and grant a new long lease with a change of use.

2.0 RECOMMENDATIONS TO CABINET

- 2.1 That a surrender of the present lease be approved and a new long lease be granted with a change of use.
- 2.2 That the Director of Development and Regeneration be authorised to take all necessary steps to effect the surrender and re-grant of a lease and the change of use to retail and flats.

3.0 RECOMMENDATIONS TO COUNCIL

- 3.1 That a surrender of the present lease be approved and a new long lease be granted with a change of use.
- 3.2 That the Director of Development and Regeneration be authorised to take all necessary steps to effect the surrender and re-grant of a lease and the change of use to retail and flats.
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4.0 BACKGROUND

- 4.1 On 22 December 1976 the Skelmersdale Development Corporation granted a 99 year lease to Greenall Whitley of 0.524 acres of land, at a rent which was reviewed every 13 years. The land was passed to the Council as part of the Community Related Package and they collected the rental income which at the last review amounted to £9,000 per annum.
- 4.2 In 2009 Greenall Whitley assigned their lease to Punch Taverns who in turn granted subleases to a series of licensed victuallers who all failed to secure a living from the property.
- 4.3 In 2012 Punch Taverns sought consent from the Council to assign the lease to Aditya World Markets Ltd (AWM Ltd) which was granted.
- 4.4 Later that year AWM Ltd sought the Council's consent as landlord to building works and a change of use to an Indian Restaurant. This consent was granted.
- 4.5 The works were periodically inspected to determine progress by the Estates and Valuation Manager and it was apparent that significant sums had been spent on the conversion. However, around 2013 it was clear that construction had ground to a halt. The tenant's representative advised that the director of the tenant company was very ill but that once he recovered the necessary funding to complete the project would be forthcoming.
- 4.6 Unfortunately, the director of the tenant company died in Calcutta in early 2014.
- 4.7 On 10 August the premises suffered a break in and a fire gutted the premises.
- 4.8 In October 2014 the Council became aware that the property was being offered by auction but no bids were received.
- 4.9 In 14 July 2015 AWM Ltd was made insolvent. The Council did not seek to forfeit the leases at this point as it would have assumed responsibility and liability for the costs of the site.

5.0 PRESENT POSITION

- 5.1 The Council received an approach by two gentlemen who wanted to purchase the Silver Birch site. It was explained to them that the lease was still in existence and that if the Council forfeited the lease then it would have to offer the site to the market to ensure that best value requirements were satisfied.
- 5.2 The gentleman have formed a company called Berrington Hall Limited (BHL) and taken an assignment of the premises from AWM Ltd in the name of BHL. BHL are now the Council's tenant of the premises and have paid all the arrears of rent which had accrued. BHL submitted a planning application was submitted to build 14 flats with retail units below which received consent on 8 December 2016.

- 5.3 Whilst the planning application was determined by the Council as Planning Authority however, any such development would also require the consent of the Council as the landlord and substantial variation of the lease.

6.0 ISSUES

- 6.1 The Estates and Valuation Manager advises it would not be prudent to retain a ground lease which yielded an annual rental income for such a long period, unless it was certain that the developer would retain a financial interest in the site throughout the lease term. In addition the subdivision of the ground rent to all the proposed units would mean a significant increase in resources to manage development and collect the payments. Instead it is proposed that the Council effect a surrender of the existing lease and grant a new 125 year lease which reflects the proposed change in use. In exchange for a ground rent, the leaseholders have agreed to a proposal whereby the Council would be granted an under-lease of two of the retail premises which would make up the loss of revenue.
- 6.2 Alternatively it maybe that the Council decides that it would prefer to take a sublease of residential units to the same value. This would be a less attractive option as it would be regarded as social housing and subject to the usual restrictions and the Right To Buy legislation.

7.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 7.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder. The report has no significant links with the Sustainable Community Strategy.

8.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 8.1 There are some financial/ resource implications arising from this report in respect of the preparation of the Legal documents, negotiation over the term of the new lease, management of the units passed to the Council and the management of the process during the construction phase, however these will be met using existing resources.

9.0 RISK ASSESSMENT

- 9.1 The actions referred to in this report are covered by the scheme of delegation to officers and any necessary changes have been made in the relevant risk registers.
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Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

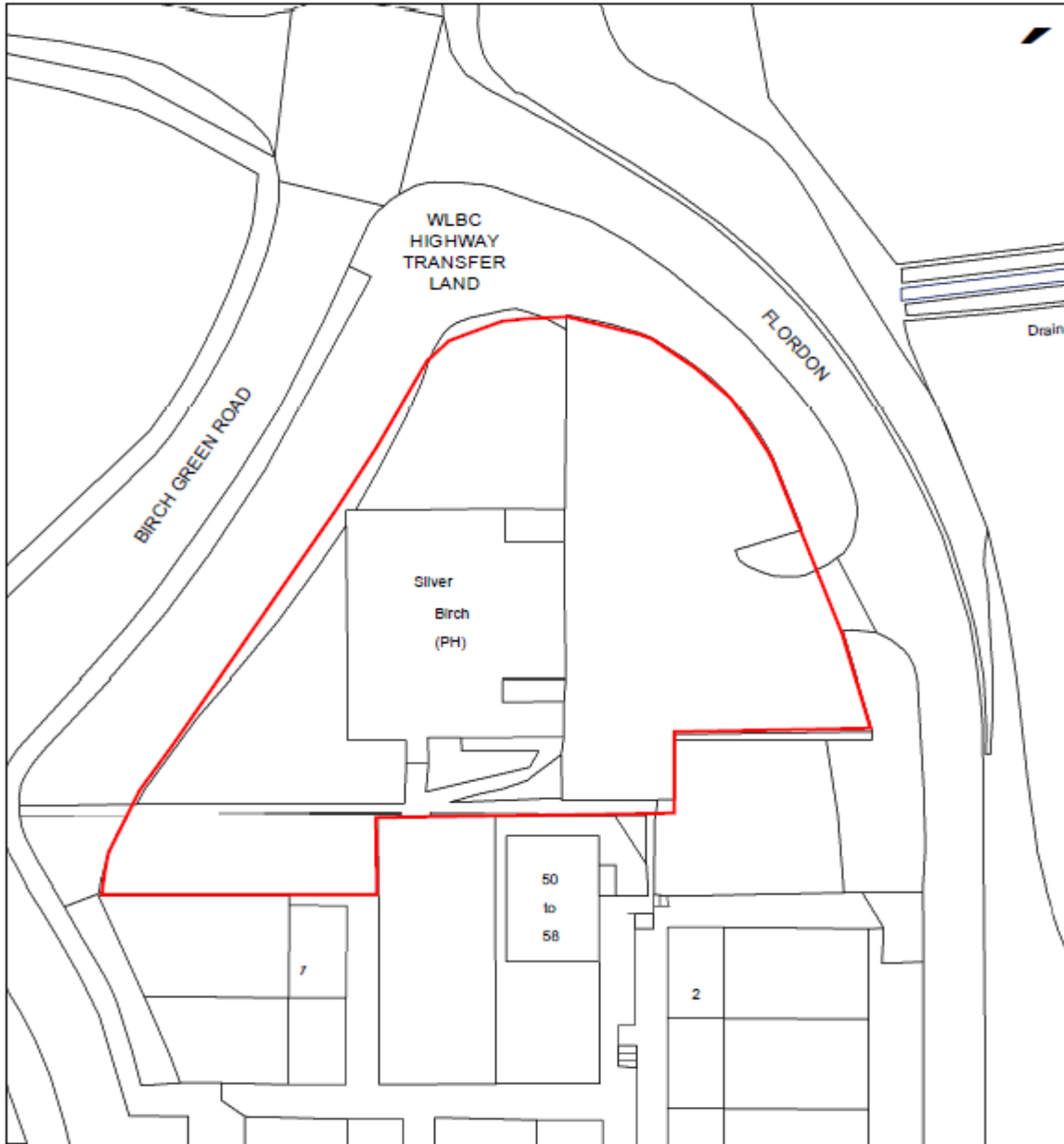
Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

1. Appendix A - Site Plan.

Appendix A – Site Plan



West Lancashire Borough Council

THE SILVER BIRCH PUBLIC HOUSE, FLORDON, BIRCH GREEN, SKELMERSDALE
 DEED C837 LA648583 AREA edged red 0.23 ha (0.56 acres)

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