

Report subject	<b>Arndale House and 1-17 Kingland Road Poole (AKA Kingland House)</b>
Meeting date	17 July 2024
Status	Public Report
Executive summary	<p>This report seeks approval to take a surrender of the head lessee's existing head lease and regrant a long lease to facilitate the delivery of the head lessee's planning permission to demolish the existing buildings and erect a mixed-use development comprising 128 residential apartments (Use Class C3) together with nine ground floor commercial units (Former Use Classes A1, A3 or B1a, now Class E) and associated ancillary works including car and cycle parking.</p> <p>The site forms part of the Town Centre Regeneration Area in the Local Plan and is earmarked by the council as one of the key opportunities to regenerate the town centre and make a step change in perceptions of the town and its overall offer.</p> <p>A refurbishment alone of this tired 1960's building will not succeed in delivering this aim.</p>
Recommendations	<p><b>It is RECOMMENDED that Cabinet recommend to Council:</b></p> <p><b>(a) To grant approval for the surrender of the existing head lease and regrant of a long new lease to facilitate the head lessee's proposed development in accordance with the Heads of Terms set out in the exempt report attached at Appendix 1.</b></p> <p><b>(b) To delegate authority to the Director of Finance in his capacity as Corporate Property Officer, the Director of Law and Governance and the Portfolio Holder for Finance to finalise the detailed terms of the Agreement for surrender and new lease.</b></p>
Reason for recommendations	<p>The proposal will:</p> <ul style="list-style-type: none"> <li>• Contribute to the council's corporate strategy priorities.</li> <li>• Optimise the use of a public land asset in accordance with its allocation in the Local Plan with good certainty of development delivery.</li> </ul>

	<ul style="list-style-type: none"><li>• Generate a capital receipt to support the funding of the Council's Transformation Investment Programme.</li><li>• Help to kickstart Poole Town Centre North regeneration through the addition of attractive new homes and a vibrant retail parade of businesses.</li></ul>
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Wards	Poole Town;
Classification	For Decision

## Background

1. The Site is currently occupied by a mix of office and retail space within buildings extending from two to four storeys in height. Arndale House is a 4-storey office building fronting the George roundabout and Kingland Road to the south. Kingland House is a mixed use three storey commercial building connected to Arndale House. At ground floor level, fronting Kingland Road, is a retail parade and a former pub occupied by a community church. At first and second floor levels, Kingland House provides office floorspace known as 'Dorset Chambers'. To the rear of Kingland House, is parking for the accommodation, accessed from Seldown Lane.
2. The site forms part of the Town Centre Regeneration Area in the Local Plan and is earmarked by the Council as one of the key opportunities to regenerate the town centre and make a step change in perceptions of the town and its overall offer. A refurbishment alone of this tired 1960's building will not succeed in delivering this aim.
3. Images of the site location, existing and proposed buildings are pasted below:

### Red line of site



## Existing Buildings



FIG 1.5 Panorama View of the existing building facade and context

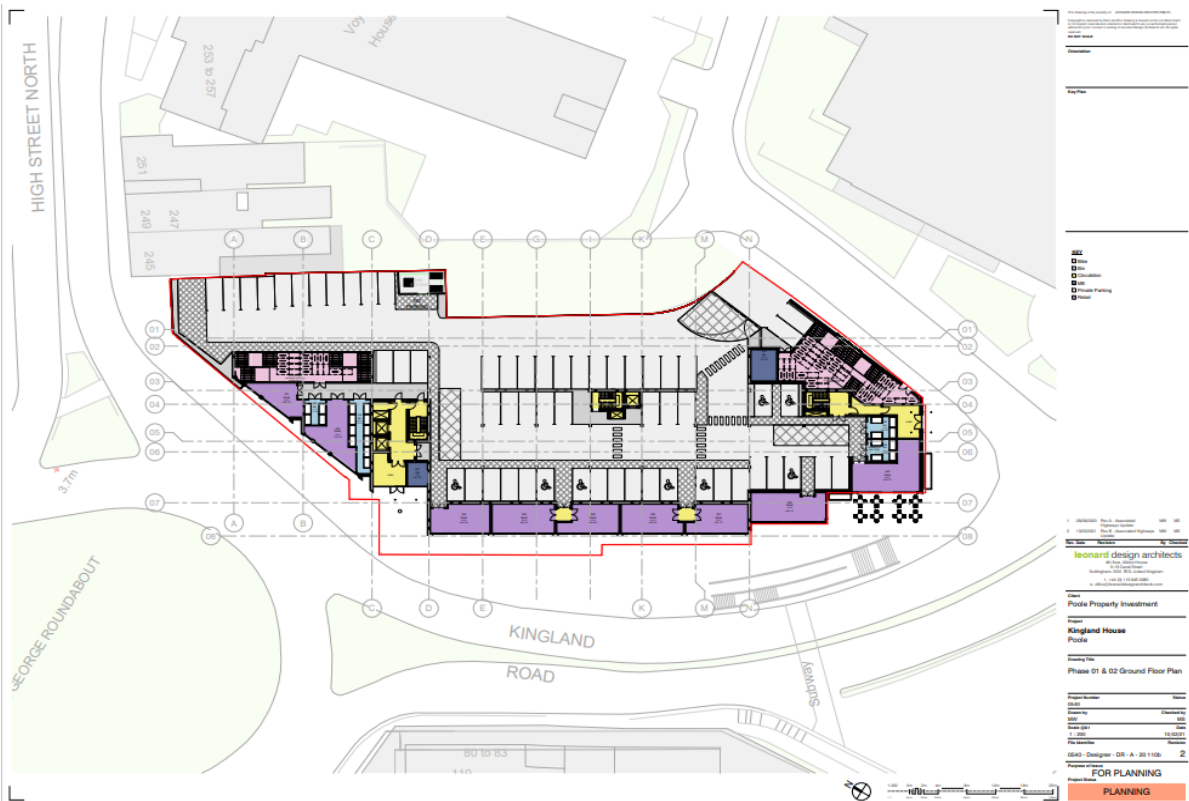
## Proposed Building



Rear Elevation



Phases 1 and 2 Ground Floor Plan



4. Planning permission ( subject to a planning obligation under S106 Town and Country Planning Act 1990) was granted on 27 and 28 July 2023 respectively (ref APP/18/00494/F) for the demolition of the existing buildings and erection of a mixed-use development comprising 128 residential apartments (Use Class C3) together with nine ground floor commercial units (Former Use Classes A1, A3 or B1a, now Class E) and associated ancillary works including car and cycle parking.
5. Following the new Building Safety regulations, all new high-rise residential buildings over 18m or seven storeys should have more than one staircase and the head lessee will shortly be making a section 73 (TCPA 1990) minor material amendment application to accommodate a second stair core.
6. Following a monthly property briefing with the Leader and Deputy Leader of the council on 22 December 2020, officers were instructed to agree terms with the head lessee to facilitate development in return for a capital receipt, subject to contract and Cabinet and Council approval. Planning consent was finally granted on 27 and 28 July 2023 and the conditional heads of terms were subsequently finalised. These are set out in the exempt report at Appendix 1. Cabinet's attention is drawn to the proposed lease length in paragraph 8, the financial consideration in paragraphs 9, 10 and 11 and paragraphs 16 and 19 (ii) & (iii) of Appendix 1 which assist in place making.
7. The head lessee has secured vacant possession of all areas apart from 11 and 17 Kingland Road. The tenant of number 11 is holding over from its lease expiry and will vacate on notice. The lease of number 17 expires on 2 May 2028, and the head lessee is exploring relocation options with the tenant. The head lessee has designed the scheme to be deliverable in phases, so that it can work around this tenant's relocation.
8. The track record demonstrating the head lessee's ability to deliver development of this scale is attached at exempt Appendix 2.

### **Public Consultation**

9. The three Ward Councillors, including the Lead Member for Regeneration Projects have been briefed. Assurance was sought by the Lead Member for Regeneration Projects that the proposed development would not inhibit or prevent a long-held ambition of BCP and Poole Councils to enhance the Kingland Road environment which, subject to full public consultation, could include bringing forward a future proposal to Council for the removal or reduction of through-traffic between the George roundabout and the Lighthouse. Transport and Planning have confirmed that such a proposal would still be possible regardless of the head lessee's planning consent being implemented.
10. Confirmation was also sought by the Lead Member for Regeneration Projects and given from Planning (Urban Design) that the ground floor of the approved application would complement any amenity space to be created on any future remodelling of this part of Kingland Road. The approved plans include nine ground floor commercial units that directly front onto and overlook Kingland Road, the intention being that these units would activate the existing street. This would align with the requirements for amenity space created as part of any future alteration works on

Kingland Road. The units are approved for retail, office, café uses etc, being a positive feature of the scheme.

11. Finally, assurance was sought and given that measures will be in place to ensure that development is carried out within a reasonable period. The preconditions for granting the new lease to facilitate the development are set out in paragraph 5 of exempt Appendix 1 and mitigate against the risk of development stalling. The existing lease will remain in full force and effect until the preconditions are met and the new lease is granted.

### Options Appraisal

12. **Option 1** Do Nothing. Wait for the lease to end in 43 years' time and dispose of a new building lease on the open market or undertake direct development at that time.

**Not recommended.** This would not deliver the council's current objective of regenerating Poole town centre north and making a step change in perceptions of the town and its overall offer. It is unlikely that the head lessee would undertake a refurbishment for the present permitted uses under the existing lease due to viability and these tired 1960's buildings would likely remain vacant and deteriorate further, giving a run down and neglected feel to the arrival area of the town centre.

13. **Option 2** Attempt to acquire the head lessee's interest and then dispose on the open market. In the absence of agreement, section 226 of the Town and Country Planning Act 1990 authorises local authorities to compulsorily purchase land if the authority thinks that the acquisition will facilitate the development, redevelopment or improvement of land, or alternatively if acquisition is required to achieve the proper planning of an area.

**Not recommended.** There is no guarantee that the head lessee would be a willing seller and the cost of pursuing a compulsory purchase order would be substantial, with no guarantee of a successful outcome or of securing a greater net return than has been achieved through the proposed lease restructure. The cost of the CPO alone would substantially erode the net return to the council and substantially delay the capital receipt. Further, the agreement reached is supported by our agents red book valuation and addendum attached at exempt appendices 3 and 4, confirming that best consideration has been achieved. In addition, the immediate opportunity of securing the approved development would be lost.

14. **Option 3** Attempt to acquire the head lessee's interest and carry out direct development.

**Not recommended.** As above, there is no guarantee that the head lessee would sell, and the same issues arise with CPO. Further, the council would be taking on all the financial and reputational risk associated with direct development, from planning (if revised scheme sought) through to construction management and unit sales, and there would be an associated delay in securing the capital receipt.

The council's priorities balance a range of outcomes which are not purely commercial. Whilst it is attractive to have the amount of control this option affords, the council's ability to capture value from a scheme is impeded by its statutory duties, public procurement regulations and an inability to operate in the same way as a commercial developer. A joint venture approach would reduce the development risk but necessitate a public procurement process that would result in delay in bringing the site to market and realisation of the capital receipt. As the head lessee

is a willing and experienced developer, council/joint venture intervention is not required in this instance to facilitate regeneration.

15. **Option 4** Agree terms with the head lessee to facilitate the development for which it has obtained planning permission and is eager to deliver.

**Recommended.** This option secures both financial and regenerative benefits, aligning with the council's corporate strategy to create dynamic places, without risk to the council and in the shortest timescale.

### **Summary of financial implications**

16. The financial terms of the subject to contract agreement are set out at paragraphs 9, 10 and 11 of the exempt report attached as Appendix 1. The RICS Red Book Valuation and addendum attached at exempt Appendices 3 and 4 and demonstrate that the financial terms agreed represents the best consideration that can be reasonably obtained.
17. Further, the head lessee's solicitor has provided an undertaking for the council's legal, and agents costs as detailed in paragraph 24 of Appendix 1.

### **Summary of legal implications**

18. External legal advice has been taken in relation to the proposal and this advice has been fully reflected in the terms proposed (subject to contract).
19. The council is empowered (pursuant to Section 123 of the Local Government Act 1972) to dispose of land that it holds in any manner that it wishes. This is however subject to the proviso that the Secretary of State's consent is needed to any disposal which is considered not to be at the best price that can be obtained or is to be at an undervalue.
20. A surrender and regrant to an existing head lessee is acceptable provided that the consideration is not less than the best that can be reasonably obtained (S123 (2) of the Local Government Act 1972).
21. The RICS Red Book Valuation and addendum attached at Appendix 3 demonstrates the premium agreed represents the best consideration that can be reasonably obtained.
22. As the sale price is at market value there is no requirement to obtain Secretary of States consent for the disposal.
23. In line with the Council's Constitution, Council approval is required for any asset disposal where the total value of the receipt is predicted to be more than £500,000.
24. Contracts for the disposal of land must be in writing and incorporate all of the terms agreed between the parties. Further legal advice must be sought to progress this in accordance with any delegations and Womble Bond Dickinson are instructed for this purpose.

### **Summary of human resources implications**

25. There are no direct human resources implications of this decision.

### **Summary of sustainability impact**

26. The Council has signed up to the climate change emergency and as such it is critical that decision makers consider the sustainability impact of their decision.
27. A Decision Impact Assessment (ID 651) has been completed and is attached at Appendix 5. It identifies both positive and minor impacts. All Theme Advisors support the proposal and particularly welcome the use of a brownfield site, green roof, 20% renewable energy source, local plant species and cycle parking. Financial contributions have been secured through the planning process for Dorset Heathland Strategic Access Management and Monitoring (SAMM) and for Poole Harbour Recreation SAMM. Along with this are contributions for Education, Healthcare, Nitrogen Reduction and CIL. The main front orientation of the building is to the south-west, and every apartment has a balcony providing solar shading whilst maximising natural light. All habitable rooms will have their own window as per building regulations. Overheating will be dealt with through efficient sustainable ventilation, heat recovery and glazing efficiency, all in accordance with building regulations. Although the building has been designed to achieve an EPC of B, which indicates high energy efficiency, there was some disappointment that an EPC of A could not have been achieved with some additional expenditure. However, there is no statutory requirement for this at present.

### **Summary of public health implications**

28. The development will benefit the health of residents and visitors by creating a vibrant accessible, retail parade in which to shop, dwell or meet friends and engage in mindful, social, or other activities which improve mental health and reduce isolation. The creation of an inclusive and healthy social and physical environmental for all is addressed in several ways. The location is highly sustainable. The town centre, bus stops, and the train station are within a short distance of the development. The new homes will be accessible and 20% of the units (26 in total) will be designed to Part M4(2) – accessible and adaptable dwellings. To encourage health and fitness and assist in reducing pollution, there is an allowance for cycle spaces on the development and a Beryl Bike hire voucher for 1 year's membership will be given to each resident. Car Club parking spaces will also be provided as well as EV charging. Safeguarding biodiversity enhancement through initiatives including a green roof, bat and bird boxes and bricks, bee bricks, hedgehog ramps and native plant species will also contribute to public health and wellbeing.

### **Summary of equality implications**

29. A full EIA conversation/screening document has been completed and approved by the EIA panel and is attached at Appendix 6. Adopting the Equality and Human Rights Commission (EHRC) framework for the protection, promotion and fulfilment of equality and human rights, positive benefits are secured for Education, Work, Living Standards, Health, Justice/Personal Security and Participation.
30. S106 contributions have been secured through the planning process for education and health and there is also provision for an affordable housing contribution if the financial conditions therein are met.
31. There are potential opportunities for construction apprenticeship learning for the young and unemployed and creation of independent start up opportunities for all age groups through the provision of the new retail parade. The development will also support jobs and the local economy through an improved, quality offer which will

help promote tourism and attract more visitors, increasing footfall and spending in the local shops and businesses.

32. It will create a safe, inclusive and healthy social and physical environmental for residents and visitors to live and enjoy the commercial facilities in a highly sustainable town centre location, where crime or fear of crime is reduced. Living standards will also be supported through the variety of sizes of new homes each meeting National Described Space Standards in a safe and accessible environment.

### **Summary of risk assessment**

33. The council's exposure to risk is limited.
34. If the current economic conditions were to deteriorate so that the head lessee/developer did not complete the lease, then the existing lease would remain in force until a future opportunity to secure regeneration of this site occurs. Further the developer has undertaken to pay the council's legal, and agent's fees as outlined in Appendix 1.
35. If the head lessee defaulted on its loan facility, due to financial difficulties or otherwise, its funders may well exercise step in rights and either complete the development or sell on the lease. However, anyone acquiring the new lease would still be bound by its restrictions. Details of the head lessee's track record for undertaking large scale development throughout the UK are included in exempt Appendix 2.

**Background papers** None

### **Appendices**

- Appendix 1. Subject to Contract Heads of Terms and Developer track record - exempt.  
Appendix 2. Track Record of head lessee/ Developer - exempt  
Appendix 3. Red Book Valuation -exempt  
Appendix 4 Addendum confirming best consideration - exempt.  
Appendix 5. Decision Impact Assessment  
Appendix 6. Equalities Impact Assessment.