

## **LAND OFF BRIDGE ROAD, WEST KIRBY**

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### **1. EXECUTIVE SUMMARY**

- 1.1 The purpose of this report is to advise Members of the terms of a potential transfer of the land comprising the highway embankment to Bridge Road, West Kirby, from Network Rail to the Council, with a lease thereafter granted to ALDI.

### **2. Background**

- 2.1 The plan attached to this report shows, edged black, a site in West Kirby which ALDI wish to develop as a store with a net sales area of 960 sqm (10,200 square feet) together with associated car parking areas and service facilities.
- 2.2 Planning permission for this scheme was granted on 23<sup>rd</sup> March 2010, following the completion of a Section 106 agreement.
- 2.3 In order to secure a site sufficient in area to deliver this project, ALDI has been involved in a land assembly exercise. This has required the Company to acquire interests in land from private owners, Network Rail and the Council. This report deals with how the final element of this process may be completed.

### **3. Current Position**

- 3.1 ALDI is now ready to implement its planning permission and build the store. It has already demolished buildings on site and the Director of Corporate Services has made representations to the Company regarding the current condition and appearance of the land. However, a difficulty has arisen in respect of the embankment, shown hatched on the attached plan.
- 3.2 This embankment is a highway embankment supporting Bridge Road as it leads up to the bridge over the railway. It is not adopted highway and it is in the ownership of Network Rail.
- 3.3 In order for this retail development to have sufficient car parking spaces, as approved in the planning permission, it is necessary to excavate this embankment and provide an appropriate retaining wall for the public highway. ALDI is willing to undertake this work and has provided drawings and specifications for the retaining wall.
- 3.4 However, Network Rail is not prepared to dispose of its interest in the embankment to ALDI direct. It has advised all parties that its policy in such matters is only to transfer interests in highway and bridge supporting embankments to Statutory Bodies, in this case the Council.
- 3.5 This means that, on transfer of Network Rail's freehold interest, the Council would become liable for the highway embankment and subsequently for the new retaining wall, when constructed.

- 3.6 ALDI has proposed, as a solution to this problem, that once Network Rail has transferred its freehold interest in this embankment to the Council, the Council then immediately grants a 99-year lease to ALDI, passing all the liabilities for repair and maintenance of the embankment to ALDI. The Director of Technical Services advises that the specification for the highway retaining wall is satisfactory to cover the term of the proposed lease.
- 3.7 ALDI cannot develop this scheme without constructing the 29 car parking spaces which would be created by the excavation of this embankment. Accordingly, it is appropriate that the Council should receive a financial benefit by agreeing to accept the freehold of this land from Network Rail and then, subsequently leasing it to ALDI. This benefit will be in the form of a Premium for Lease payable to the Council, the details of which are included in the exempt Financial Implications of this report.
- 3.8 The grant of this lease will enable ALDI to build the store and redevelop this site in accordance with its planning permission. As the premium for lease, provisionally agreed, is deemed fair and reasonable, it is recommended that these two dependent transactions proceed as outlined in this report.

#### **4. Financial Implications**

- 4.1 The Financial Implications of these agreements are detailed in the Exempt Section (Appendix 1) of this report.

#### **5. Community Safety implications**

- 5.1 The redevelopment of the site will remove the potential risks associated with empty and demolished properties.

#### **6. Local Agenda 21 implications**

- 6.1 None arising directly from this report.

#### **7. Planning implications**

- 7.1 Planning permission for the development was approved in March 2010, following the completion of a Section 106 agreement.

#### **8. Anti-poverty implications**

- 8.1 None arising directly from this report.

#### **9. Human Rights implications**

- 9.1 None arising directly from this report.

#### **10. Social Inclusion implications**

- 10.1 None arising directly from this report.

#### **11. Local Member Support implications**

- 11.1 The development is located in the West Kirby and Thurstaston ward, close to its boundary with Hoylake and Meols.

## **12. Background Papers**

12.1 None

## **13. RECOMMENDATIONS**

13.1 That the Cabinet agrees to accept the freehold of the embankment off Bridge Road, West Kirby, in accordance with the terms and conditions set out in this report.

13.2 That, on receipt of the freehold, Cabinet approves the grant of a lease to ALDI for the embankment, in accordance with the terms and conditions set out in this report.

**Bill Norman**

Director of Law, HR and Asset Management