

Key Decision Required:	No	In the Forward Plan:	No
-------------------------------	-----------	-----------------------------	-----------

CABINET

14 MARCH 2012

REPORT OF THE HOUSING PORTFOLIO HOLDER

A.4 RENEWAL OF THE LEASE OF 61 CHURCH STREET, HARWICH

(Report prepared by Richard Harvey)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To seek approval to renew the lease of a lock-up shop situated at 61 Church Street Harwich to the current tenant, Mr Erol Dolay.

EXECUTIVE SUMMARY

- The Council owns two ground floor lock-up shops at 60 and 61 Church Street Harwich which are located beneath a block of flats which forms part of the housing stock.
- The shops are the responsibility of the Housing Portfolio and create an income for the Housing Revenue Account
- Both shops comprise structurally separate units with their own front and rear entrances, a common street frontage and rear courtyard area with provision for parking; but currently are not internally linked.
- The shop comprising 61 Church Street is not used for direct trading and has been used for a number of years for storage
- The existing tenant of 61 Church Street, Mr Erol Dolay, is currently holding over on a 10 year lease which expired on 31st October 2011
- Mr Dolay also rents the adjoining shop at 60 Church Street, trading as Peri's Mini Market, which is operated as a general grocery store and off-licence. There is a 15 year lease on this shop which ends on 31st December 2020.
- Cabinet approval is sought in principle to renew the lease of 61 Church Street to Mr Dolay for a term that would also end on 31st December 2020 so that the term of the leases on both shops will in future run concurrently.

RECOMMENDATION(S)

That Cabinet considers and decides in principle whether to progress with the renewal of the existing lease as set out in this report.

PART 2 – IMPLICATIONS OF THE DECISION

2.1 DELIVERING PRIORITIES

Priorities in the Corporate Plan seek to build a thriving local tourism industry and promote sustainable economic growth and regeneration especially in town centres. This shop is located in the heart of "Old Harwich" and has the potential to be used by a small business thereby providing a local service to tourists and residents.

2.2 FINANCE, OTHER RESOURCES AND RISK

2.2.1 Finance and other resources

The lease of the shop premises provides an income to the Housing Revenue Account. The financial implications of renewing the lease will be set out in the report included in part B of this agenda.

2.2.2 Risk

No risks have been identified that would preclude entering into a new lease for this shop with Mr Dolay. Mr Dolay has complied with the terms of his current lease and has a satisfactory record of paying his rent. In the current economic climate the Council might otherwise struggle to find an alternative tenant with a resulting loss of income.

2.3 LEGAL

The existing lease is subject to the provisions of part II of the Landlord & Tenant Act 1954 (as reformed).

Under this legislation the existing tenant has the right to apply for renewal of the lease at any time after its contractual end date and particularly if the Council seeks to end it. If the Council were minded not to renew the lease it would have to serve notice on the tenant specifying one or more of seven statutory grounds upon which a new lease would be opposed if the tenant sought a new one. A case in the County Court would result if the Council and tenant could not agree on whether to engage in a new lease or on its terms.

Reasonable enquiries have been carried out and no grounds have been identified that would give officers cause to recommend to Cabinet that it should not renew the lease to Mr Dolay.

The granting of a new lease is in accordance with the Council's discretionary powers.

The terms of the current lease restrict use of the premises to Part A class A1 (a) of the schedule to the Town & Country Planning (Use Classes) Order 1987 (as amended).

2.4 OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder/Equality and Diversity/Health Inequalities/Consultation and Public Engagement.

2.4.1 Crime and Disorder

Appropriate use of the premises as a shop will have a positive impact on the street scene and local community and will avoid the problems that are likely to arise if it were left untenanted.

2.4.2 Ward

Harwich East

PART 3 – SUPPORTING INFORMATION

3.1 BACKGROUND

The Council owns two lock-up shops at 60 and 61 Church Street Harwich. The shops which were constructed in 1965 are located at street level below a block of flats which forms part of the housing stock. The shops are the responsibility of and are administered by, the Housing Portfolio and provide a source of income to the Housing Revenue

Account.

Each shop comprises a structurally separate unit with its own front and rear entrance, a common street frontage direct onto Church Street and a rear courtyard area with provision for a single parking space for each unit.

The internal usable floor area of each shop is approximately 50 m² but they are currently not internally linked and therefore form separate trading units.

The shop on which Cabinet is requested to approve renewal of the lease is No 61 Church Street and its associated car parking space as identified on the plan attached at Appendix A.

3.2 CURRENT POSITION

The lease of No 61 Church Street, which was originally on a 10 year term, was assigned to the current tenant Mr Erol Dolay in 2008. The lease expired on 31st October 2011 and Mr Dolay is currently holding over on the agreement. Mr Dolay seeks renewal of the lease under the provisions of part II of the Landlord & Tenant Act 1954.

Mr Dolay also rents the adjoining shop at 60 Church Street, trading as Peri's Mini Market, which is operated as a general grocery store and off-licence. There is a 15 year lease on this unit on identical terms and conditions but the agreement on this shop does not expire until 31st December 2020.

The shop unit comprising 61 Church Street for which Cabinet approval is currently sought to renew the lease has not been used for direct trading for a number of years but is currently used by Mr Dolay for storage.

Mr Dolay has indicated that leasing shop No 61 Church Street for an additional term as well as leasing shop No 60 Church Street would potentially allow the option of operating both shops as a single trading entity and to seek approval from the Council to make internal alterations to the structure of the shops to facilitate this.

Cabinet approval is therefore sought in principle to lease the shop at 61 Church Street to Mr Dolay on the same terms and conditions as the adjoining shop - No 60 and for a term that also expires on 31st December 2020 so that the leases on both units run concurrently.

This will enable Mr Dolay the option of maximising the use of both premises in relation to his existing business.

FURTHER HEADINGS RELEVANT TO THE REPORT

None

BACKGROUND PAPERS FOR THE DECISION

The existing lease agreement and other documentation in relation to renewal of the lease are held by the Head of Life Opportunities.

APPENDICES

Appendix A – Plan showing No 61 Church Street Harwich and its associated car parking space.

APPENDIX A

Tendring
District Council

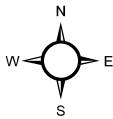


Legend

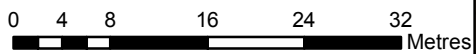
Legend



Date: 09/12/2011



Author:



Map Notes