

## **Report to CABINET PART A**

# **Site A, Prince's Gate, Oldham**

**Portfolio Holder:** Cllr Amanda Chadderton  
Leader and Cabinet Member for Regeneration and Housing

**Officer Contact:** Emma Barton  
Executive Director for Place & Economic Growth

**Report Author:** James Tolan, Principal Regeneration Officer  
**Ext.** 4537

**23<sup>rd</sup> January 2023**

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### **Reason for Decision**

Notification from Lidl that the changing market conditions in the hotel and leisure sector has resulted in them no longer being able to deliver the contracted agreement at the town centre site.

Subsequently, Lidl and the Council have agreed to progress a mutual surrender and termination of the existing agreement (between Oldham Council and Lidl UK GmbH dated 27<sup>th</sup> February 2019) reflecting the current market conditions.

### **Recommendation**

Cabinet is requested to approve the termination of the contract between Oldham Council and Lidl UK GmbH dated 27<sup>th</sup> February 2019, with each party responsible for their own costs.

Cabinet is also requested to note that, subject to a satisfactory termination of the Lidl contract, an options paper is being prepared to consider future uses for this site, (which includes potential for more new homes as an alternative to retail given wider town centre regeneration plans).

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## **Executive Summary**

Following notification from Lidl that the national impact in hotel and leisure sector has significantly impacted on their ability to deliver the contract agreement for the Mumps town centre site, this report seeks approval to terminate the existing agreement (between the Council and Lidl dated 27<sup>th</sup> February 2019 relating to Site A, Prince's Gate, Mumps – which would have seen Lidl acquire the site to build a supermarket and 68-bedroom hotel).

It is noted that Lidl had an agreement with a major hotel operator for the site in 2019; however, since the hotel agreement was signed, the impact of the covid pandemic has seen a significant decline in new development locations for the hotel leisure sector. This has led to Lidl formally acknowledging and notifying the Council that they are no longer able to deliver this key development opportunity.

As an alternative option to the termination of the contract agreement, the Council did receive a request from Lidl to vary the contract; however, any such a variation could present a risk of legal challenge to the Council given substantial changes from the originally advertised opportunity.

This report is to formally report the notification from Lidl and to seek approval to formally terminate the contract, with each party bearing their own costs. Subject to a satisfactory termination of the contract, an options paper is being prepared to consider potential future uses for the site, which could include further retail, employment, housing or commercial opportunities.

Site A, Prince’s Gate, Oldham

**1 Background Summary**

**1.1 Marketing Process / Previous Cabinet Approval (2018)**

In 2018 following a formal open marketing process the Council received compliant offers from parties for development opportunities on Site A at Mumps, on the basis of land sale transactions.

Approval was granted by Cabinet in November 2018 for the Council to proceed with Lidl’s offer to develop a supermarket and a 68-bedroom hotel, in return for capital receipt and land disposal.

**1.2 Agreement for Lease between Council and Lidl (2019)**

Following Cabinet approval, the Council completed an agreement for lease between Oldham Council and Lidl UK GmbH dated 27th February 2019.

**1.3 Hotel contractual conditions**

The Council’s 2019 contract with Lidl included a number of conditions including securing a hotel operator before the sale formally completes. It is noted that this was completed in mid 2019, when Lidl signed an agreement with a major hotel operator for the proposed hotel development.

However, since the hotel agreement was signed and as a result of the Covid pandemic, there has been a decline in the hotel leisure sector and as such, Lidl have formally notified the Council that this important part of the contract is no longer deliverable.

**2.0 Current Position**

2.1 Following receipt of this notification, the Council entered into a number of detailed discussions with Lidl to understand the impact on the contract and to explore potential options to see how the development could be achieved within the terms of the existing contract, to ensure the Council to adhere to its Public Law responsibilities.

**2.2 Summary of External Legal Advice.**

The Council has commissioned extensive legal advice relating to the Council’s ability to consider some of the options presented which effectively proposed to vary the existing contract.

It is noted that based on legal advice received that should the Council vary the contract which would see the development proceed without a hotel, this would leave the Council open to challenge and could be in breach of public law.

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A summary of the Council's external legal advice is contained within Part B of the restricted report.

### **3 Options/Alternatives**

#### **3.1 Options to be considered**

Option 1: Mutual surrender/termination of the agreement.

Option 2: Unilateral termination by the Council.

Option 3: Agree a variation of the existing contract. However, this was not considered a viable option.

### **4 Preferred Option / Recommendation**

4.1 **Option 1** is the preferred option with the following recommendation for member considerations:

#### **4.2 Recommendation**

For Cabinet to agree to a mutual surrender/termination of the agreement with each party covering its own costs.

#### **4.3 To note**

For Cabinet to note that, subject to a satisfactory termination of the Lidl contract, an options paper will be prepared to consider future uses of the site.

### **5 Consultation**

5.1 Colleagues in Finance, Legal and Audit as well as external legal advisors have been consulted, together with portfolio leads on receipt of the information from Lidl.

### **6 Financial Implications**

6.1 Financial Implications are contained within the Part B restricted part of this report.

### **7 Legal Services Comments**

7.1 Legal comments are contained within the Part B restricted part of this report.

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8. **Co-operative Agenda**

8.1 The site when remarketed will support the development of Oldham's economy and create employment opportunities in line with the Council's co-operative agenda.

(Amanda Richardson, Policy Manager, Strategy and Performance)

9 **Human Resources Comments**

9.1 None

10 **Risk Assessments**

10.1 Risk Assessments are contained within the Part B restricted part of this report.

11 **IT Implications**

11.1 None

12 **Property Implications**

12.1 Property Implications are contained within the Part B restricted part of this report.

13 **Procurement Implications**

13.1 Procurement Implications are contained within the Part B restricted part of this report.

14 **Environmental and Health & Safety Implications**

14.1 None

15 **Equality, community cohesion and crime implications**

15.1 None

16 **Equality Impact Assessment Completed?**

16.1 No

17 **Key Decision**

17.1 Yes

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18     **Key Decision Reference**

18.1    ESR-35-22

19     **Background Papers**

19.1    Reference to Background Papers are included within the Part B restricted part of this report.

20     **Appendices**

20.1    Appendices are contained within the Part B restricted part of this report.