

## 1.0 Appendix 1 – Legal – Real Estate

This schedule is supplemental to the Report to Cabinet and sets out the legal position and legal powers relative to real estate work concerning Bishop’s Court and Holme Park Court, Berry Brow and Buxton House plus 68-118 New Street, Huddersfield.

### 1.0 LEGAL TITLE: Berry Brow

The Council owns the freehold legal title for Bishop’s Court and Holme Park Court, Berry Brow. A Report on Title commissioned by the Council indicates that there are no matters that would prevent redevelopment of the site for residential purposes

### 1.1 Buxton House

1.1.1 The Council’s freehold title to Buxton House and 68 – 118 New Street (even numbers only) at ground floor level is subject to a Lease dated 15 June 2012 granted to Zurich Assistance Limited (**‘Zurich’**). This Lease subsists for a term of 175 years expiring 14 June 2187 (**‘Zurich Lease’**).

1.1.2 The Council holds an Underlease of Buxton House only (granted to the Council by Zurich) dated 28 December 1973 (**‘Underlease’**). The Underlease subsists for a term of 99 years expiring 23 June 2068. There are 47 years of the Underlease remaining.

Key covenants the Council must observe under the Underlease and which influence refurbishment and re-modelling of Buxton House include:

- 1.1.2.1 to keep the Premises in a good and substantial repair and condition;
- 1.1.2.2 to paint the interior and exterior of Buxton House and, at the request of the Zurich, clean, restore, renew or make good the external metal, stone, concrete, marble, granite and brickwork of Buxton House; and
- 1.1.2.3 not to carry out external and structural alterations unless the Council has first obtained Zurich’s consent.

Other covenants may also influence refurbishment and re-modelling of Buxton House.

1.1.3 The Underlease does not permit the demolition of Buxton House. Further, demolition of Buxton House without significant damage to the New Street/Albion Street premises would be exceptionally challenging because Buxton House is structurally integrated with the premises along New Street and Albion Street.

1.1.4 Telecoms

There are various telecoms masts and ancillary equipment on the roof of Buxton House.

If the Council is to demolish Buxton House, then it will need to serve a termination notice on the telecoms operator seeking removal of the masts and equipment on the grounds of intended redevelopment.

If the Council is to refurbish Buxton House, then it will likely need to serve a notice on the telecoms operator seeking to either to modify the terms of the Lease or terminate its rights in order to carry out the roofing works.

In either case a legal process follows that will determine if the telecoms equipment can be removed.

Informal discussions with Zurich indicate Zurich would be amenable to selling its Head Leasehold interest to the Council.

## **2 LEGAL POWERS**

- 2.1 The Council has statutory powers to serve Demolition Notices the effect of which is to suspend a tenant's application to buy for a period of up to 7 years.
- 2.2 The council has statutory powers to acquire land as a site for the erection of houses under section 17 Housing Act 1985 and to build housing on its housing land under section 9 Housing Act 1985
- 2.3 The Council has the power to build council housing on its housing land under Section 9 Housing Act 1985.
- 2.4 The Council has statutory powers to serve termination notices on the telecoms operator.

## **3 REAL ESTATE CONSIDERATIONS – BUXTON HOUSE**

- 3.1 To proceed with the New Building proposals for Buxton House necessitates the Council buying Zurich's Lease. This will give the Council strategic control enabling the demolition of Buxton House and the demolition or remodelling or re-purposing of the New Street retail units which would be consistent with the Council's intentions for Huddersfield Town Centre.
- 3.2 To demolish, remodel or re-purpose New Street / Albion Street necessitates securing vacant possession of the retail and leisure units. Some tenants will be entitled to compensation. Additionally, compensation may become payable to other tenants having long leases rather than the common standard retail institutional leases. Compensation would not, in theory, be payable if a tenant voluntarily relocates but in such a case a payment may be made to enable the voluntary relocation.
- 3.3 To refurbish Buxton House necessitates Zurich's co-operation and approval to the scheme including:
  - 3.0.1 securing Zurich's consent and approval to the proposed works;
  - 3.0.2 Zurich agreeing to accept a surrender of the current ground floor access area on terms; and
  - 3.0.3 Zurich agreeing to negotiate a new lease of alternative ground floor premises within the current New Street / Albion Street retail development to facilitate access to the re-modelled Buxton House and provide concierge service

Zurich is not under any contractual or statutory obligation to give consent or co-operate generally for this venture.

If Zurich is mindful to co-operate it will most likely expect the Council to pay all fees and costs Zurich incurs. The amount of Zurich's fees and costs cannot be quantified at the current time and it is unlikely Zurich will agree to them being capped.

- 3.4 Refurbishment of Buxton House will add to Zurich's investment value. There is no guarantee the Council will be able to secure a new underlease when the current Underlease expires in 47 years and if it does the Council will be required to pay rent at market value.