
UPDATE ON COVERED AND OPEN MARKET PARTNERING

Draft Heads of Terms for Long Lease Disposal and Grant of Rights to Operate Covered and Outdoor Market

Subject to Cabinet Approval and Subject to Contract

1. **Demise.** To be all those premises known as the Covered Market building, the external facing shops and the Old Town Hall (excluding the Clock Tower), Darlington, extending to 0.66 acres approximately and shown for general identification purposes edged red on the attached plan. The demised area is to include the un-adopted pavements which are beneath the canopy on the north, east and southern aspects of the property and the un-adopted areas (including the steps) which are in front of the Old Town Hall.

N.B. The Council will retain a right to use the former public toilets and external un-adopted areas shown hatched on the plan (under the canopy) for special events on non-trading dates and will retain possession of rooms 42 and 43, the small storage rooms off the East Row entrance to the Covered Market basement and shown in red on the attached plan.

Together with rights to operate the Outdoor Market at the current locations or such other locations to be agreed with the Council

The property is leased subject to (and where appropriate) with the benefit of the title matters disclosed in the office copies as further disclosed

The property is leased subject to the possession of present tenants and licensees.

("the Property")

2. **Term.** Bidder to insert length of lease term offered [] years.
3. **Lessor.** Darlington Borough Council, Town Hall, Darlington. DL1 5QT
4. **Lessee.** See 18 (1) below.
5. **Rent.** To be offered in the tender
6.
 - (a) **Premium.** To be offered in the tender

- (b) **Bond** – a bond against the lessee in respect of breach of the repair and maintenance obligation is required. The lessee should confirm the sum offered in the tender response.
- (c) **Rent Review** – 5 yearly in line with the increase in commercial market rent or RPI whichever is the greater
7. **Repairs and Maintenance.** The Lessee is to put and keep the Covered Market in such a condition so as to fully comply with and complete the **Schedule of Works** including any enhancement proposals put forward by the tenderer. Thereafter, the Lessee will fully maintain the property (excluding the Clock Tower and the interior of rooms 42 and 43) in a condition satisfactory to the Council.
8. **Refurbishment Proposals.** The Council is seeking to receive and consider proposals from the tenderers whereby improvements and enhancements to the Covered Market and / or external shops / café units are set-out, a timescale for implementation and an indication of how such works are to be funded.
9. **Insurance.** The Council intends to continue to insure the property for the normal commercial Perils and will recover the premium, or a proportion of the premium, from the lessee. The anticipated annual figure to be paid by the Lessee may be in the order of £2,500 per annum, subject to periodic review.
10. **Break Clauses.** The proposed lease is to contain the ability for the Landlord (the Council) to break the lease upon the 5th anniversary of the signing of the lease if the lessee has not carried out the required Schedule of Works by that date. If funding requires a certain term without break clause alternative proposals to complete the Schedule of Works under an Agreement for Lease (as a precondition to grant of Lease) will be considered.
11. **User.**

11.1 Covered Market

To use as a Covered Market with external retail and café units which will be open for trading not less than 6 days in any week, and on each day not less than hours of 9.00am until 5.00pm. The Council is prepared to consider other uses within use classes A1, A3, A4 or A5 use as specified in the Tender and subject to change of use as below. *

* A change of use from market stalls and / or vacant space to an alternative A1, A3, A4 or A5 use will require the Councils prior written consent (unless agreed prior to lease). Alterations to the property will require Listed Building Planning Consent, any relevant Building Regulations and the consent of the Council. A clause will be included in the lease whereby no stall or external unit may be used for any purpose which is considered (in the absolute discretion of the Council acting reasonably) to be an immoral use.

11.2 Outdoor Market

In respect of the Outdoor Market, as an outdoor market facility on a minimum of two days a week, in a location to be agreed with the Council as Landlord and land-owner.

12. **Restrictive Covenant.** Not to use the property other than for specified user. (see point 11 above).
13. **Alienation.** Not to assign sublet or part with possession of the whole of the property at any time within the lease term. The leaseholder will be able to create leases or licences enabling the letting of market stalls/ units (indoor and outdoor) and vacant external shops /cafes.
14. **Schedule of Works.** The works to be undertaken to the demised property as stipulated by the Council will be based as a minimum on the condition report carried out by consultants Billingham George & Partners dated October 2015 and other works (including enhancement works to refurbish the property) as identified in the Lessee's tender submission.
15. **Conditionality.** The transaction is to be conditional upon the receipt and acceptance by the Council of an investment proposal which sets-out how the Schedule of Works will be funded and what refurbishment works are planned for the Covered Market.
16. **Costs.** Purchaser to meet Councils reasonable legal and surveyors costs
17. **Security of tenure**

Long leasehold – opted out of ss 23-28 Landlord and Tenant Act 1954. Future under lettings to be opted out.

18. **Historical Objects** Benefit of historical objects to be retained by the Council
19. **Value Added Tax**

The Council reserves the right to elect to waive the exemption from VAT

20. Other matters affecting the Property

The Property is also leased subject to: -

- (a) all Local Land Charges whether registered or not before the date of the Lease and all matters or things capable of registration as Local Land Charges whether or not actually so registered
- (b) all notices served and all directions schemes orders demands proposals or requirements or other matters made by any local or other public or competent authority body or person whether before or after the date of the Lease and whether or not disclosed to the Lessee before the date of the Lease

- (c) all actual or proposed charges notices orders restrictions agreements conditions contraventions or other matters arising under the legislation from time to time in force relating to town and country planning environmental law highways or any other legislation whether before or after the date of the Lease
- (d) all quasi-easements public or private rights of way and any other rights exceptions easements leases or wayleaves or other similar matters whether or not apparent on inspection or disclosed to the Lessee before or after the date of the Lease
- (e) all matters recorded in any registers open to public inspection or revealed by the searches and enquiries that a prudent purchaser would make or ought to make
- (f) all matters revealed or that would reasonably be expected to be revealed on an inspection or survey of the Property
- (g) any rate charge or other outgoing which affects and/or is charged on the Property except for any mortgage or legal charge relating to money secured on the Property
- (h) all overriding interests as defined in the Land Registration Act 2002. The Council will provide the Lessee with details of all overriding interests of which it is aware