

Cabinet

17 March 2017



Report Title: Callowhill Court New Lease

Ward: Central

Strategic Director: Barra Mac Ruairí / Strategic Director: Place

Report Author: Robert Orrett / Service Director: Place - Property

Contact telephone no & email address 0117 922 4086
robert.orrett@bristol.gov.uk

Purpose of the report:

To obtain Cabinet approval to consolidate 26 existing long lease agreements, currently held by The Bristol Alliance from Bristol City Council, into a single new lease agreement, in order to facilitate further major redevelopment in Broadmead, in the area known as Callowhill Court.

Recommendation for the Mayor's approval:

- 1 To agree that the Council will merge the existing 26 long lease agreements currently held by Bristol Alliance from the Council, into a single new consolidated lease agreement, on the terms described in this paper, in order to enable the future redevelopment of Callowhill Court.**
- 2 To authorise the Strategic Director: Place, to approve completion of the new lease on the following basis; to resolve any other issues in terms of the new lease, including land ownership issues within the scope of the defined land area, subject to:**
 - a. Briefing of the Cabinet Member for Place on due diligence, details of the new lease, legal arrangements, and the contribution of the new lease to the overall regeneration and economic growth in the area.**
 - b. Advice from the Service Director: Place - Property, recommending the terms of the new lease and any other property implications that might affect the Council's interests as a result of the new lease.**
 - c. The agreed amount paid for the new lease meets the Council's obligation to achieve best consideration pursuant to s123 of Local Government Act 1972.**

The proposal:

Introduction

- 1 The Bristol Alliance wish to bring forward the next phase of Cabot Circus, by redeveloping a substantial area of Broadmead, adjacent to Cabot Circus, known as Callowhill Court (shown below).



- 2 Before any redevelopment project can proceed, the Alliance needs to secure a land interest that will enable them to implement the scheme. The Alliance already holds current and separate 26 long lease agreements from the Council which are most of the retail units it would require. In addition, there are land areas held by the Council as public realm that would become part of the scheme. The Alliance needs to consolidate all these into a single, new long lease arrangement, to ensure that additional large-scale funding can be secured, and that the new scheme can be successfully delivered and managed.
- 3 External Valuers CBRE (one of the leading property consultancies), were instructed on behalf of the Council to assess the additional value arising from the proposed consolidated single lease and the appropriate value for the Council's land, so as to ensure that the value agreed between the parties achieves best consideration for the Council. The values and details are commercially sensitive for both parties. Accordingly, the supporting details and valuation advice is contained in Exempt Appendix C.

Background

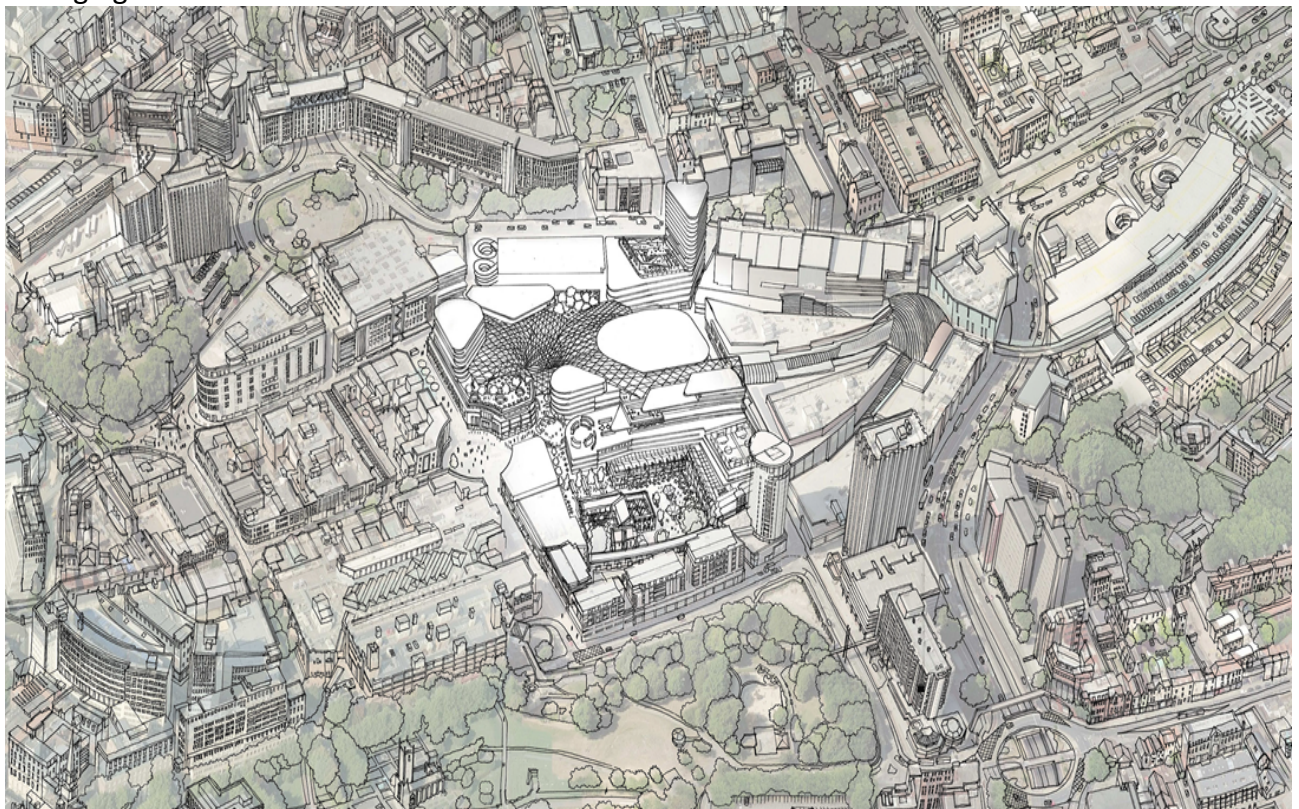
The role of Bristol Alliance

- 4 Cabot Circus was developed by a 50:50 joint venture between Hammerson PLC and Land Securities - known as the Bristol Alliance - and opened in 2008. The £500 million mixed-use development, which received detailed planning consent in December 2003, comprises a 77,110 sq m (830,000 sq ft) covered shopping centre, Quakers Friars a 15,795 sq m (170,000 sq ft) luxury goods and dining quarter, and 34,355 sq m (370,000 sq ft) of adjoining high street shops.

- 5 In August 2014 AXA Real Estate Investment Managers (“AXA Real Estate”) - a leading European real estate portfolio and asset manager - announced that it had agreed the acquisition of a 50% stake in Cabot Circus for £267.8 million, from Land Securities.
- 6 Hammerson retained its 50% stake in Cabot Circus and took over the management of the centre, encompassing property and asset management, leasing and marketing in respect of the retail occupiers of the scheme. AXA Real Estate retains a strategic asset management role on behalf of its clients.
- 7 To date, the Alliance has invested over £500m in Bristol City Centre, creating over 3,780 retail, leisure and hospitality jobs at various positions and for all sectors of society. The partnership is committed to on-going investment in the city, supporting Bristol City Centre’s role as the regional capital for the South West.

The Bristol Alliance Vision

- 8 The Council is committed to continued improvement in the city centre retail offer and the overall quality of the city centre for the benefit of citizens and visitors.
- 9 Bristol Alliance believes that it is essential to deliver new format retail spaces in city centres that will continue to attract visitors. To this end, the Bristol Alliance masterplan for Callowhill Court proposes a framework that will facilitate the long term vision to:
 - a. Reinforce Bristol City Centre as the regional shopping destination of choice, by improving the mix and type of town centre uses available.
 - b. Create a structured retail expansion capable of adapting the Callowhill Court offer to meet emerging consumer demands.



- c. Create leisure space that extends the current Cabot Circus leisure offer and reinforces Bristol as the primary regional leisure destination.
 - d. Create a masterplan that improves transport connectivity and quality of streetscape, eases localised congestion and improves environmental quality for people.
 - e. Create a place that has a commercial offer that extends activity from day through to evening into the night.
- 10 The size of the new scheme is currently proposed to be c. 102,480 sq m (1,103,000 sq ft). This will be partly replacing existing retail floorspace that is now failing to meet the needs of shoppers or retailers. By comparison the existing Cabot Circus scheme is c. 140,000 sq m (1,506,950 sq ft). The new scheme will provide a mix of uses including retail, commercial, leisure and hospitality floor space, as well as flats, car parking, access, landscaping, public realm works.



The potential impact of expansion at Cribbs Causeway

- 11 The currently proposed expansion of The Mall, Cribbs Causeway includes more than 35,000 sq m (376,000 sq ft) of retail floor space, leisure, and hotel and restaurant facilities alongside a new multi-storey car park, an events plaza and up to 150 residential apartments.
- 12 Bristol City Council has strongly objected to this proposal (the objection was agreed by the Council's Cabinet at its meeting of 3rd March 2015). South Gloucestershire Council is minded to grant permission for the application, which in turn has now been referred to the Secretary of State, who is considering whether to call it in for his decision. The Council's objection explains that the proposal is

contrary to the development plan, contrary to national policy, unsustainable and likely to cause significant harm to Bristol city centre. National planning policy aims at ensuring the vitality of town centres (NPPF paragraphs 23 – 27). The application proposals would result in a huge scale development of main town centre uses at an out-of-centre location. This would clearly be at odds with the Government’s ‘town centre first’ policy. The proposals fail the sequential test set out in the NPPF and would have a significantly harmful impact on existing centres.

- 13 The Cribbs Causeway application proposals would also significantly impact on shopper, retailer and investor confidence in the city centre and act as a deterrent to investment. Evidence suggests that proposals facilitated by the city’s local plan (Bristol Central Area Plan Policy BCAP36) would not proceed in the event of such a huge expansion of out-of-centre retailing being permitted.

Callowhill Court – existing and proposed land use and ownership

Bristol City Council’s existing land ownership at Callowhill Court

- 14 Bristol City Council owns the freehold title to all of the land held within the proposed demise of the new long lease red line boundary.

The Bristol Alliance existing leasehold ownership at Callowhill Court (See Appendices Plans A and B)

- 15 The Bristol Alliance also holds 26 existing leases that relate to the proposed Callowhill Court redevelopment and produce a rental income to Bristol City Council of £249,023 per annum.

Land use and new lease (see Appendix A – PLAN C)

- 16 The red line shows the boundary of the land that is to be included in the new lease between Bristol City Council and The Bristol Alliance, and encapsulates all the existing 26 leases currently held by the Bristol Alliance in this position. The Bristol Alliance holds other lease also, comprising their interests in Cabot Circus.
- 17 The yellow coloured land is currently a service court which is in part Highway land. The cost of repair and maintenance is the responsibility of the Council. The land is used to service the surrounding shop units, by providing space for refuse storage and vehicular deliveries of stock. Under the proposed new lease, the responsibility for the cost of managing and repairing the land will pass to the Bristol Alliance at the start of major redevelopment works. It is likely that the land will be built upon, with alternative shop service areas provided elsewhere in the scheme, which in turn will be the responsibility of the Bristol Alliance.
- 18 The purple coloured land is Public Highway, and areas not taken up by the development be managed by the Bristol Alliance i.e. the responsibility and cost of maintenance, cleaning, and managing the land will become the contractual obligation of the Bristol Alliance under the terms of the new lease, in a similar fashion to the provisions that were agreed when the original lease of Cabot Circus was granted to the Bristol Alliance.
- 19 The land hatched blue on the plan reflects the boundary of income and management in respect of the existing commercialisation agreement of the street outside the red line site boundary. This area is known as the Podium and the agreement in respect of the management of this area can be

terminated by either Party upon the service of 12 months written notice should the site be required for or in connection with a scheme of redevelopment. It is proposed to extend this area to the north of Merchant Street. There would be the ability to commercialise and hold events in the area commensurate with the existing commercialisation agreement terms.

- 20 The areas hatched green on the plan are long leases not currently held by the Bristol Alliance but are within the Council's Freehold ownership. They are included within the proposed new lease because the Bristol Alliance may need to purchase the interests in connection with the new development. In the meantime the Council will continue to receive rent as normal.
- 21 It is proposed that the 26 existing long leasehold interests held by The Bristol Alliance at Callowhill Court are consolidated into a single new 250-year lease that will enable the Alliance to seek appropriate funding for scheme construction, and provide sufficient land control to enable development management and future scheme management.
- 22 The principle - that rent received by the Council relates to the overall rent received by the head lessor - is retained in the new agreement, as normal market practice. Therefore the prospects for (the Council) achieving future rental growth remains linked to overall market performance, albeit that it would be reasonable to expect a new scheme to have better rental growth performance than the existing buildings on the Callowhill Hill Court site.

New Lease Terms

- 23 The main terms of the new lease are as follows:
 - a. The term of the new lease will be 250 years from the grant date. Upon grant of the new lease the existing lease interests will be surrendered;
 - b. Upon grant of the new lease the Council will receive a capital receipt based on the increased market value of the new leasehold interest created. The value of the capital receipt is based upon external valuation advice from CBRE, and commissioned by the Council's Property Investment Team (see Basis of Valuation below);
 - c. The current ground rent payable under the existing 26 leases is £249,023 per annum and will be maintained in the new single lease at the same level; as per the current leases, the rents received by BCC vary according to their percentage of actual rents receivable by the Bristol Alliance each year.
 - d. Following redevelopment of the site, a new rent would be payable, based upon a percentage of the total rents received by the Bristol Alliance, with deductions for costs incurred by The Alliance under normal estate management, and will be based upon those within the existing lease between the Parties on Cabot Circus (the Cabot Lease) where appropriate. The revised rent will not fall below the existing rent. A summary of the existing rents has been attached to these terms as appendix B;
 - e. Following redevelopment, the percentage of rent received by the Council will be no greater than 5% of the estimated rents received by the Bristol Alliance, and any element above 5% would form part of the Financial Consideration as a capital payment to The Council.
 - f. Redevelopment trigger – Works that constitute a cumulative net addition of more than 20% of the Base Gross External Area of the existing buildings are deemed "Major Works" and in order to undertake these works the Bristol Alliance must meet the following conditions:

- i. The Alliance will provide such reasonable floor plans and sections illustrating the Major Works for the Landlords approval prior to the submission of a planning application. The Landlord will be reasonable in granting consent to the Major Works.
 - ii. Prior to the implementation of the Major Works the Alliance will have received all necessary planning, highways and other consents as are required.
 - iii. The Alliance will put forward its proposal for the new rent to be payable upon the completion of the Major Works (the Revised New Rent), and if this is not agreed it can be referred to an independent expert for determination;
 - iv. The Alliance will propose any other financial consideration (Financial Consideration) in respect of the Major Works.
- g. The existing Commercialisation rights that the Alliance currently holds under a separate agreement with the Council, will be transferred (as existing) into the new lease, which includes the small area hatched blue on the plan explained above which will be licenced. The current rent payable under this agreement is currently being reviewed, and is expected to be settled at c. £90,000 per annum; this amount will be added to the rent payable under the new lease.

Valuation

Basis of Valuation

- 24 CBRE have undertaken a series of calculations to assess the Marriage Value that will be created if the 26 existing head leases are replaced by a single, new 250 year head lease, and this Marriage Value is then apportioned equally between the parties. Marriage Value is the term used to describe an additional element of value created by the combination of two or more assets or interests where the combined value is more than the sum of the separate values. Typically this can only be achieved by a transaction between specific parties which hold those interests and not by a general sale to the open market.
- 25 The Council's approach recognises that it is necessary to provide the Bristol Alliance with certainty that they have a property interest, as achieved by this new lease, to enable them to proceed with the redevelopment if all other aspects – planning and highways consents, investor backing, market conditions – are achieved. This is required in order to justify the substantial investment at risk in bringing forward the design of the redevelopment scheme.
- 26 This does mean that at the point of agreeing the new lease, the anticipated future redevelopment project is not defined or known and therefore cannot be valued on this basis. The Council has adopted the basis of valuation will enables BCC in its negotiations with The Bristol Alliance on restructuring their leasehold interests, to be satisfied that it is achieving best consideration in accordance with s123 of the Local Government Act 1972.
- 27 CBRE consider that the approach reflects the best combined price and rent BCC should reasonably expect to achieve as a landlord in this transaction having regard to all the factors which affect value of the property interests. As this is a Marriage Value situation, this approach is applied to each of the components in the valuation process. The overall value is based on market value levels but reflects the additional value arising from combining and revising the current freehold and long leasehold interests.

28 All assessments are restricted to the current uses and the existing buildings. The new lease specifically provides for additional value which may arise when a known redevelopment project is actually implemented to be assessed and a return identified at the time as the further best consideration to the Council being agreed as further rent, and if appropriate capital. If that amount cannot be agreed, the Council may obtain a determination from an independent expert to set the amount.

Consultation and scrutiny input:

- a. **Internal consultation:**
Senior Leadership Team; Place Leadership Team and Legal Services
- b. **External consultation:**
Destination Bristol

Other options considered:

Do not restructure the existing leases. This would result in the redevelopment not taking place. It would also deprive the Council of an immediate capital receipt.

Risk management / assessment:

FIGURE 1

The risks associated with the implementation of the (subject) decision :

No.	RISK Threat to achievement of the key objectives of the report	INHERENT RISK		RISK CONTROL MEASURES Mitigation (i.e. controls) and Evaluation (i.e. effectiveness of mitigation).	CURRENT RISK		RISK OWNER
		(Before controls)			(After controls)		
		Impact	Probability		Impact	Probability	
1	Redevelopment does not take place after new lease granted	High	Low	Work with the developer	High	Low	Author/Bristol Alliance
2	Cannot agree lease terms	Low	Low	Detailed Heads of Terms already agreed	Low	Low	Author/Bristol Alliance

FIGURE 2

The risks associated with not implementing the (subject) decision:

No.	RISK Threat to achievement of the key objectives of the report	INHERENT RISK		RISK CONTROL MEASURES Mitigation (i.e. controls) and Evaluation (i.e. effectiveness of mitigation)	CURRENT RISK		RISK OWNER
		(Before controls)			(After controls)		
		Impact	Probability		Impact	Probability	
1	Redevelopment does not take place	High	High	n/a	High	High	Author

Public sector equality duties:

Before making a decision, section 149 of the Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:

- i) eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
- ii) advance equality of opportunity between persons who share a relevant protected characteristic and those do not share it. This involves having due regard, in particular, to the need to:
 - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic.
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
 - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- iii) foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to tackle prejudice and promote understanding.

Comment: No equalities impact assessment is needed for this proposal at this juncture in the project. There are no equalities issues in the current proposal to amalgamate the 26 long leases in order to enable the future development of Callowhill.

Advice given by **Wanda Knight, and Anne James, Equalities & Community Cohesion Team.**
Date **6 February 2017**

Eco impact assessment

Comment: Consolidation of the Callowhill Court leases has no direct environmental impact. Any redevelopment plans will not be produced by the council and will be subject to planning approval, which will include relevant environmental considerations. As a result, no Eco-Impact Assessment checklist is needed for this cabinet report.

Advice given by **Giles Liddell and Steve Ransom, Environmental Performance Team.**
Date **6 February 2017**

Resource and legal implications:**Finance****a. Financial (revenue) implications:**

The proposal seeks approval to combine the existing 26 lease agreements currently held by Bristol Alliance on the Council's freehold land, into one single new consolidated lease agreement to enable the future redevelopment of Callowhill Court.

The existing 26 leases vary in contract length and starting date, and are due to expire individually between the next 40 to 100 years. These leases are currently generating a combined rental value / revenue income of £249,023 p.a. for the Council. The proposal will replace these existing leases with a single 250 year lease, which would produce the same amount of minimum rental income.

The new lease also allows for a new rent payable following redevelopment of the site, based upon a percentage of the total rents received by the lessee net of deductible costs. The new contract will ensure that the revised rent will not fall below the existing rental aggregation mentioned previously. Any potential uplift on the rent receivables will present additional revenue contributions to the Council's general fund. However this will depend on the speed of the commercial development.

A separate licence agreement is currently being review (currently generating income of circa £70,000 p.a.) and this is expected to be transferred into the new lease. The expected value for the rent is circa £90,000 p.a. this amount will be added to the rent payable under the new lease.

Advice given by Tian Ze Hao / Finance Business Partner
Date 15/02/2107

b. Financial (capital) implications:

Please see attached the exempt appendix for the full financial commentary.

By way of combining and extending the leases, a Marriage Value will be created and apportioned equally between the parties. Professional consultant CBRE has been engaged to provide necessary advice to assist with the negotiations in order to achieve the best consideration for the Council. The benefit of the currently lease combination presents a capital receipt. This is in scope for the delivery of existing capital receipts targets set out in the MTFP.

Advice given by Tian Ze Hao / Finance Business Partner
Date 15/02/2017

Comments from the Corporate Capital Programme Board:

N/A

c. Legal implications:

The report states the price payable and rent to be achieved under the new lease is the best price the Council should reasonably expect to achieve and as such satisfies the Council's obligation to achieve best value pursuant to S123 of Local Government Act 1972.

Advice given by Andrew Jones – Team Leader (Property)
Date 8/2/2017

d. Land / property implications:

The report and recommendations were prepared by the Property Investment Team. All property implications are covered by the report and appendices.

Advice given by **Richard Fear – Property Investment Manager**
Date **8/2/2017**

e. Human resources implications:

There are no HR issues in the current proposal to amalgamate the 26 long leases in order to enable the future development of Callowhill.

Advice given by **Mark Williams**
Date **8/2/2017**

Appendices:

Appendix A - **PLAN A** - Existing leases (Callowhill – North side).

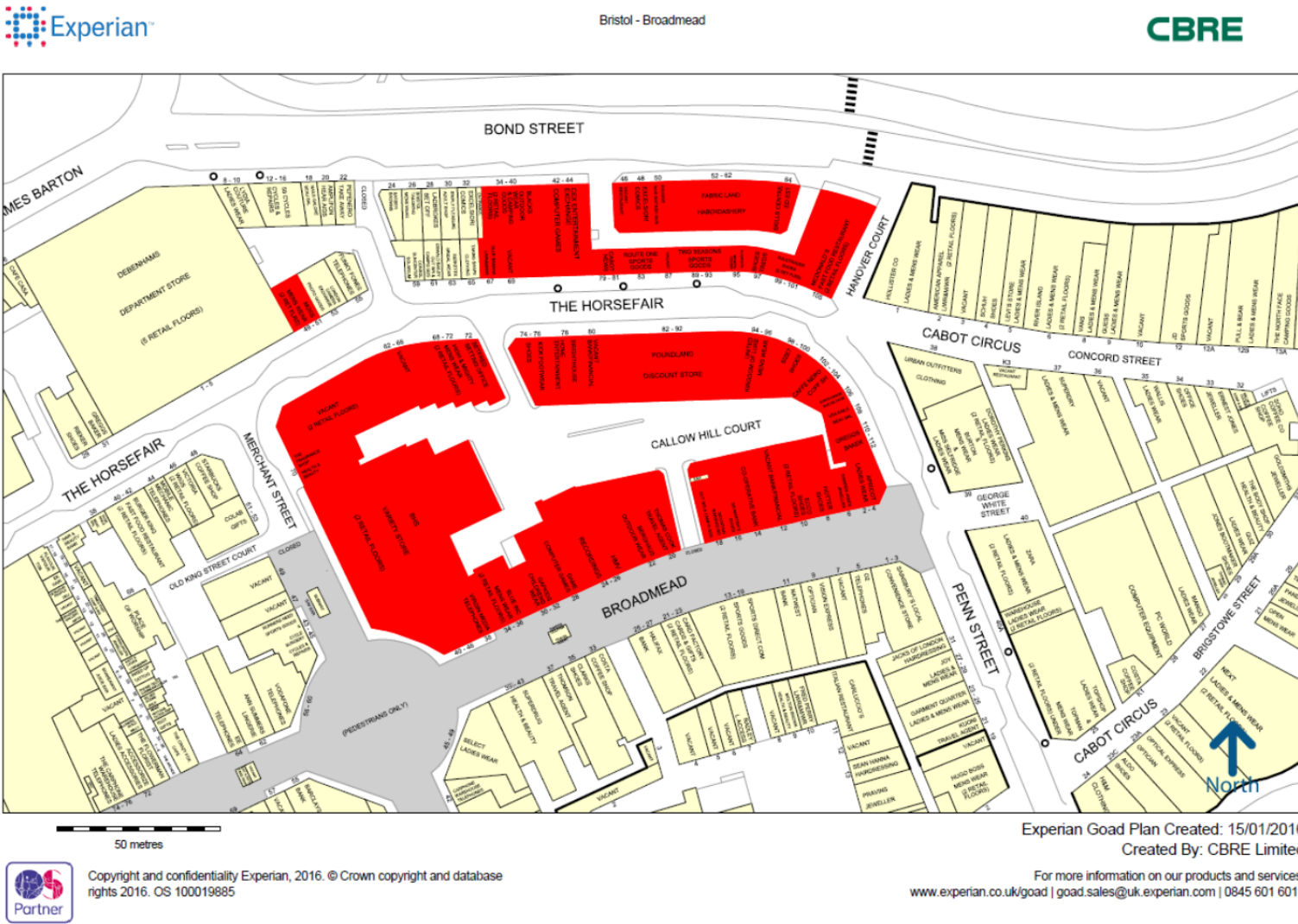
 - **PLAN B** - Existing leases (Callowhill – South side).

 - **PLAN C** - Proposed new lease plan extract from the agreed Heads of Terms for the proposed new lease of Callowhill Court.

Appendix B - SCHEDULE - of existing long leasehold interests held by Bristol City Council.

Exempt Appendix C - February 2017 addendum to CBRE's valuation reports.

Appendix A - PLAN A - Existing leases (Callowhill – North side).



PLAN B - Existing leases (Callowhill – South side).



Bristol - Broadmead

CBRE



Experian Goad Plan Created: 02/09/2016

Created By: CBRE Limited



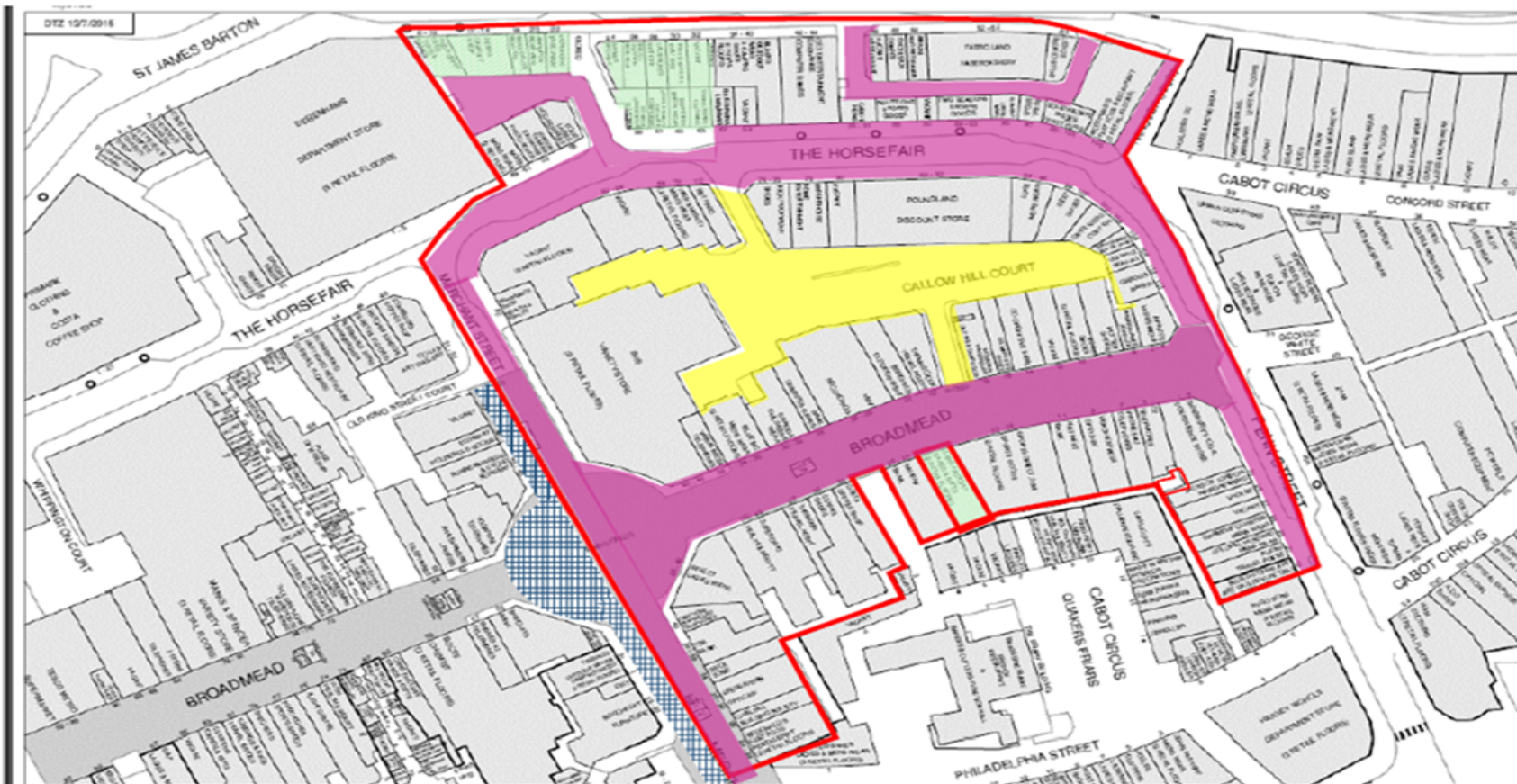
Copyright and confidentiality Experian, 2016. © Crown copyright and database rights 2016. OS 100019885

For more information on our products and services:
www.experian.co.uk/goad | goad.sales@uk.experian.com | 0845 601 6011

PLAN C

Proposed new lease plan extract from the agreed Heads of Terms for the proposed new lease of Callowhill Court.

Note: all land within the red line is owned by Bristol City Council.



Appendix B

Schedule of existing long leasehold interests held by Bristol City Council

	Interest	Term (Years)	Expiry	Rent (Paid)	Rent Type	Review Pattern	Next Review
1	67-71 The Horsefair and 34-38 Bond Street	125	30/01/2110	£5,575	To 2.50% of open market rent, upward and downward	5 yearly from 25/03/19	25/03/2020
2	73-77 The Horsefair and 40-44 Bond Street	125	24/12/2114	£35,075	Rents receivable - 5.00% of annual net revenue	Rents receivable	31/03/2016
3	79-105 The Horsefair and 46-70 Bond Street	125	24/12/2114	(included in above)	Rents receivable - 5.00% of annual net revenue	Rents receivable	31/03/2016
4	2-6 Broadmead and 108-112 The Horsefair	125	24/12/2114	£15,200	Rents receivable - 5.00% of annual net revenue	Rents receivable	31/03/2016
5	12-14 Broadmead	125	29/09/2110	£5,500	To 2.50% of open market rent, upward and downward	5 yearly from 30/09/19	30/09/2020
6	16-18 Broadmead	125	23/06/2111	£4,300	To 2.50% of open market rent, upward and downward	5 yearly from 25/12/19	25/12/2016
7	26-30 and 34-36 Broadmead, 50-72 The Horsefair and 72-78 Merchant Street	125	24/12/2114	£12,250	Rents receivable - 5.00% of annual net revenue	Rents receivable	31/03/2016
8	33-43 Broadmead	125	24/12/2114	£31,300	Rents receivable - 5.00% of annual net revenue	Rents receivable	31/03/2016
9	45-49 Broadmead and 30-46 Merchant Street	125	24/12/2114	£25,925	Rents receivable - 5.00% of annual net revenue	Rents receivable	31/03/2016
10	18-28 Merchant Street	125	24/12/2114	£12,750	Rents receivable - 5.00% of annual net revenue	Rents receivable	31/03/2016
11	49-51 The Horsefair	125	27/08/2111	£1,725	To 2.50% of open market rent, upward and downward	5 yearly from 28/08/19	28/08/2016
12	74-76 The Horsefair	125	31/03/2120	£0	Rents receivable - 5.00% of annual net revenue	Rents receivable	31/03/2016
13	78-106 The Horsefair	125	24/12/2114	£33,375	Rents receivable - 5.00% of annual net revenue	Rents receivable	31/03/2016
14	1-19 Broadmead and 33-35 Penn Street	99	30/10/2057	£15,100	Fixed rent	N/A	N/A
15	21-31 Penn Street	125	24/03/2110	£6,600	To 2.50% of open market rent, upward and downward	5 yearly from 29/09/19	29/09/2019
16	38-54 Broadmead & 50-70 Merchant Street	125	30/12/2107	£0	A peppercorn	N/A	N/A
17	25-27 Broadmead	125	29/08/2121	£9,750	To 5.00% of open market rent, upward and downward	5 yearly from 30/08/20	30/08/2016
18	8 Broadmead	99	14/10/2059	£1,460	Fixed rent	N/A	N/A
19	10 Broadmead	99	24/03/1958	£1,450	Fixed rent	N/A	N/A
20	20 Broadmead	125	31/03/2120	£6,875	Rents receivable - 5.00% of annual net revenue	Rents receivable	31/03/2016
21	22 Broadmead	99	23/06/1983	£2,500	To 2.50% of open market rent, upward and downward	5 yearly from 24/06/19	24/06/2018
22	24 Broadmead	125	10/12/2114	£17,069	Rents receivable - 5.00% of annual net revenue	Rents receivable	31/03/2016
23	32 Broadmead	125	24/03/2110	£2,275	To 2.50% of open market rent, upward and downward	5 yearly from 24/06/19	24/06/2018
24	Kiosks 1A & 1B and sitting out areas		28/09/2033	£0	A peppercorn	N/A	N/A
25	Kiosks 2 and sitting out area		28/09/2033	£0	A peppercorn	N/A	N/A
26	53-55 The Horsefair	125	05/12/2110	£2,969	To 2.50% of open market rent, upward only	5 yearly from 06/12/19	06/12/2015
TOTAL RENT RECEIVABLE				£249,023			