



Report sponsor: Rachel North Strategic Director
for Communities & Place
Report author: Steve Caplan, Director of
Property Services

Deda leases and the Northern Gateway update

Purpose

- 1.1 To update the portfolio holder of the ongoing work to regenerate a key area of the city known as the Northern Gateway.
- 1.2 To set out proposals to support the continued operation of Deda, a key stakeholder within this location.

Recommendations

- 2.1 To note and consider this update.
- 2.2 To delegate authority to the Strategic Director of Corporate Resources to complete lease(s) with Deda based on the general terms set out in paragraph 4.26 subject to final agreement.
- 2.3 To continue the due diligence seeking to reach a recommendation on the regeneration option(s) for the Northern Gateway.
- 2.4 To note the risk of future impacts on the MTFP for the unquantified potential works for separation outlined in section 4.22 and legal fees of between 4k and 6.5k outlined in 4.25 for which there is no current budget identified .

Reasons

- 3.1 Following the decision to approve the closure of Queens Leisure Centre in conjunction with the imminent review of Council owned car parks (specifically Chapel Street car park), work is underway to review options around this strategically important gateway site into the city.
- 3.2 Deda remain a key stakeholder within the City; renewal of their lease agreements will enable the organisation to continue to provide their valuable services to the community. The authority to grant a long lease on the terms sought requires a portfolio member approval.

Supporting information

4.1 Northern Gateway

The Council, in May 2018, commissioned their property advisors, Thomas Lister to undertake a Market Assessment Report in respect of the Queens Leisure Centre. The report did not provide any recommendations regarding a preferred future development or delivery strategy, however, the recommendations which are set out below remain pertinent and can assist to form a way forward for the asset and wider site.

The Thomas Lister recommendations can be summarised as follows:

- Liaise with adjacent landowners to investigate the opportunity for land assembly
- Liaise with Deda to establish their long-term accommodation requirements
- Identify a preferred scheme (this should consider land-use, format, mix etc)
- Procure site investigation material to understand demolition/remediation costs
- Prepare a Development Brief for the site

4.2 A multi-disciplinary group was established in June 2021 to revisit the Thomas Lister work and consider the potential wider opportunities regarding the 'Northern Gateway' area of the city. The group includes membership from:

- Planning
- Property Services
- Architects – External (Lathams)
- Regeneration
- Strategic Housing

4.3 The Northern Gateway (as outlined in Appendix One) forms a mix of private and Council owned sites and is considered a key gateway into the city centre. There are other ownerships, leased out premises, a road, conservation area and local listings which all need to be considered.

4.4 From the work and discussions undertaken to date, Lathams have advised on several options to utilise DCC's existing assets to bring forward development (see Appendix One).

4.5 The models for delivery of schemes are being considered by the Director of City Development and Growth aligned to several city-wide opportunities.

4.6 It is considered that the regenerative potential of all options maybe enhanced if a comprehensive scheme could be brought forward. The Council has recently appointed Avison Young [AY] as professional property advisers and there is now an opportunity for them to review the entire site with the restrictions/conservation issues and existing ownerships and consider the best options to delivery as well as what is most appropriate for the city.

4.7 Lathams have provided several “high level” options that assume long-established venues/occupants are retained including the Bless public house, The Flowerpot public house and Deda.

4.8 The strategic ambition for the Northern Gateway is predicated on the vibrancy of this part of the city likely to be around increased student accommodation and activity – centred around the successful operation of Deda and the Bless and Flowerpot pubs (with a long and very highly established history of live music).

4.9 **Deda**

Deda (Derby) is a creative centre for dance and movement. The organisation is considered a critical part of the cultural ecosystem of Derby. They are dependent on a mixture of revenue funding from Arts Council England (National Portfolio Organisation [NPO]), University of Derby (to run the BA and MA Creative degrees) and several creative trusts and funding bodies. In addition, income is received from classes and other ancillary services. Deda has over recent years developed its reach from a solely dance based organisation to one with a broader urban street focus and leads the successful creation and delivery of Feste – a critical annual street art Festival across the city. A web link to Deda is contained within Appendix Two.

4.10 The Council provides no direct financial support to Deda – and in essence the granting of leases at a low rent represents support “in kind” from the Council to Deda.

4.11 **Current Leases**

Deda currently lease two premises from the Council within the Northern Gateway area that are detailed below. Floor plans for both properties are contained in Appendix Three.

Lease Details	Start Date	Expiry Date	Rent/Service charge
19 Chapel Street (Main Building)	1/1/1998	1/1/2023	£5,0000 plus £1,800 service charge
Former Squash Courts	13/3/2015	31/12/2022	£2,000 per annum

4.12 The existing leases are internal repairing only which results in the Council holding the costs and liabilities of repairing the external structure. The properties are in good condition and no work is envisaged currently from the Council. No significant/extra-ordinary costs have been incurred by the Council in recent years.

4.13 **New leases to support funding bids**

Deda have approached the Council and requested a renewal of their two existing leases on the same terms This request was based (in part) upon an opportunity to bid for capital funding from the Arts Council England [ACE] to improve the council's

asset and offer more and better facilities. They bid for £750k which would have been spent on improving the Council's asset including climate improvement works. The bid to date is unsuccessful, but the vision remains, and they plan to bid into other funding streams when available. In addition, the NPO funding which is core to Deda's financial sustainability and all other external grants they can secure requires the organisation to have 'long term' certainty over their lease

- 4.14 Deda have requested a 20-year lease(s), at an equivalent rent to that currently being paid
- 4.15 The value of 20 years a low rent will, exceeds £1m in financial support through loss of rent. This is an estimate based on an approximate market rental value of £6psf. This value of discount can be supported if the council is satisfied the grounds are valid of the Circular 06/3 referred to in paragraph 4.23 below.
- 4.16 The rateable value is £28,000, Deda qualify for discounted rates and pay approximately £750pa currently.
- 4.17 Deda's leases are contracted out of the security of the Landlord & Tenant Act 1954. This means there is no legal automatic right to renew. Any new leases should also be contracted out of future security provisions.
- 4.18 It is recognised and acknowledged that Deda are a key strategic partner to the Council. The location is also considered as important to the cultural vibrancy of the city and a key partner to the city of culture bid.

4.19 **Risk Considerations**

There are specific risks associated with the granting of a lease like this on these terms that require careful consideration.

- 4.20 Renewing the leases, on a long-term basis could dilute and extinguish a comprehensive redevelopment scheme and, on a purely commercial analysis, potentially a lost opportunity to (comprehensively) regenerate the Northern Gateway area of the city. This risk will be mitigated by including a "lift and shift" clause in the agreement.
- 4.21 However, retaining Deda in situ is not considered detrimental to successful scheme development and could well be an advantage in terms of future development in terms of having an established tenant in situ setting the tone for development of the area.
- 4.22 One of the existing Deda leases comprise the former QLC squash courts. They were internally partitioned from the QLC building in 2015, however should the QLC building be repurposed, e.g., demolished/disposed of this will lead to some structural complexities and increased costs. Rights of access and separation should be retained. The cost of any separation works has not been assessed but will be factored in the regeneration of the QLC.

- 4.23 The granting of any leases over 7 years are required to follow s123 of the Local Government Act 1972, best consideration. Long leases at a rent less than best consideration can be granted if the council is satisfied, they comply with the Circular 06/03: Local Government Act 1972 general disposal consent (England) 2003. The permitted maximum level of support is £2m value without seeking Secretary of State approval, on social, economic, or environmental grounds to support an area.

Based on the current proposals the criteria for the consent can be applied and the limit is not breached.

- 4.24 In general, granting a lease at undervalue could amount to an illegal subsidy under the subsidy control regime. However, recognising that the subsidy control regime is still under-development following the UK's withdrawal from the EU, it is considered prudent to consider whether any proposed subsidy would have been achievable under the previous State Aid regime. Under the GBER Block Exemption, specific exemptions existed in respect of state support for cultural partners, and it is therefore considered that this arrangement would be considered a permitted subsidy under the new rules.
- 4.25 The cost of the new lease (legal fees) will have to be met by the Council. These costs are estimated to be in the region of £4,000 - £6,500. This cost is expected to be met by the council. An underspend budget will have to facilitate this

4.26 **Property Recommendations**

To support Deda with future funding applications and NPO accreditation the following Heads of Terms are proposed: -

- Lease Term: 20 years.
- Rent: £7000pa plus a service charge contribution to repairs.
- The rent will increase by the rate of CPI on each NPO funding cycle.
- Break Clause: the break will be as per the existing lease, with the addition that if DCC require to redevelop the site they can serve a 2 years notice to "lift and shift at nil cost (to Deda) either or both to a temporary or permanent relocation not to be detrimental to the offer of Deda in the city centre as to be defined.
- No parting with possession: this means no subletting, assignment of part or whole and no sharing of possession which creates lease interest. Licences will be permitted with the agreement of the landlord.
- Repairing Liabilities: the tenant to be fully responsible for the internal maintenance, repairs, and insurance of the assets as in the current leases.
- No change of use from that of Deda and any ancillary uses to their business.
- The lease will be contracted out of the L&T Act 1954 part 2 provisions, resulting in DEDA not having an automatic right to renew at the end of the 20 year lease term.

Other Options Considered

- 5.1 The options are essentially set out in the body of the paper being: grant the long lease(s) as requested or grant shorter leases now with longer leases when funding bids are made or successful and potentially on more commercial terms.
- 5.2 Not granting the new (long) leases.
- 5.3 The Council could decide not to grant new leases to Deda on the basis that to do so would inhibit the future development potential of the site. This option has been dismissed for the reasons set out above.
- 5.4 Alternatively, the Council could require that Deda enter leases on more commercial terms; this option has been dismissed as we are advised by Deda that approach would be wholly unacceptable to ACE and jeopardise Deda's future funding arrangements, and therefore their existence as a key stakeholder organisation in our city.

Public/stakeholder engagement

- 6.1 Not applicable.

Financial and value for money issues

- 7.1 The details and rental considerations of the terms of the proposed lease are set out in the body of the paper.

Legal implications

- 8.1 The key legal issues are set out in the body of the paper.
- 8.2 The granting of such leases is a function of the cabinet member at this level of rent and term.
- 8.3 It is unlikely legal services will have the resources to deliver a new lease in the timescale so this work may / will have to be carried out externally.
- 8.4 Legal services are satisfied the use of the Circular 06/03 is valid in these circumstances.

Climate implications

- 9.1 There are no climate implications per se in the granting of the lease. However, the tenant will be seeking to improve the climate impact of the building through the proposed alterations. A green wall and PV roof panels were proposed in the last funding bid to ACE.

Other significant implications

- 10.1 There are potentially reputational issues with either the granting or not granting of the leases to Deda.

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal	Emily Feenan	1 march 2022
Finance	Alison Parkin	1 march 2022
Service Director(s)	David Fletcher	1 march 2022
	Claire Davenport	3 march 2022
Report sponsor	Rachel North	18 February 2022
Other(s)	Simon Riley	18 February 2022

Background papers:	None
List of appendices:	Appendix 1: Derby Northern Quarter, Options Study (Latham's)
	Appendix 2: Floor Plans – Deda