ANNEX A

NO LONGER EXEMPT

Decision Record

Report of the Strategic Director for Commercial Development, Assets and Leisure

Leader member: Councillor Jonathan Morgan

PART A

Investment Property Acquisition – Banbury

Purpose of Report

This report seeks approval to acquire a commercial investment property.

Recommendation

1. To acquire the commercial investment property detailed in Part B of the report.
2. To approve the Heads of Terms as set out in the appendices and to delegate authority to the Strategic Director – Commercial Development, Assets and Leisure to continue negotiations and finalise the transaction based on these Heads of Terms.
3. To authorise the Head of Strategic Support to complete the legal transactions.

Reasons

1. Purchasing this property is a prudent investment and will support the Medium Term Financial Strategy (MTFS). The proposed acquisition is in line with the Council's approved Commercial Property Investment Strategy. By investing capital in the purchase of this property, the Council will receive a revenue income and will be the freehold owner of the property. Ultimately, the purchase will support MTFS, thereby protecting the delivery of services to Charnwood's residents.
2. Delegation of this authority will allow for the timely completion of the transaction, as well as timely decision making should additional negotiation be required. The Leader, Deputy Leader, Chief Executive, S151 officer and Monitoring officer will be consulted throughout the transaction to completion.
3. To allow for timely completion and signing of contracts.

Alternative Options Considered

The alternative to not invest in this property would not realise any additional revenue to support the MTFS. Any investment carries risk; however, these risks have been evaluated and understood.

Policy Justification & Previous Decisions

The justification for this decision is outlined within the financial projections and associated challenges set out within the latest version of the MTFS (approved by Council on 20 January 2020), and the proposed method of addressing that challenge through the acquisition of commercial investment property set out in the current Capital Strategy as well as the forthcoming Capital Strategy, approved by Council on 9 November 2020.

Implementation Timetable including Future Decisions and Scrutiny

Officers became aware of the opportunity on 25 August 2020, at which time initial due diligence on lease and title, examination of the tenant covenant and financial modelling were undertaken. The Strategic Director – Commercial Development, Assets and Leisure, with CBC's property advisor and legal representation, inspected the property on 15 September; no defects or elements of concern were found or noted.

Immediately following approval of the Capital Strategy 20/21 and the associated Capital Plan on 9 November, a bid to acquire the property was submitted to the vendor. The bid was accepted and Heads of Terms (HoT) were agreed on 9 November at 9.30pm. A delegated decision that is supported by this report must be signed by the Leader no later than 11 November. Should the results of further due diligence remain favourable, completion of the acquisition should take place no later than 16 November 2020.

Report Implications

1. Corporate Plan:

A commercial property investment strategy has been outlined in the Corporate Plan, and an investment fund has been approved by Council and forms part of the Capital Strategy and Capital Programme.

2. Legal:

Section 120 of the Local Government Act 1972 empowers a Borough Council to acquire land for the purpose of any of the Council's functions or for the benefit, improvement or development of their area by agreement inside of or outside of its area.

3. Finance:

This report is effective from 6 November 2020 and has the following financial implications:

Budget Area	**Implication**
General Fund – Revenue Budget	The General Fund Revenue and Capital Financing implications are contained within an appendix to Part B of the report
General Fund – Capital Programme	The financial implications are contained within an appendix to Part B of the report. This proposed acquisition is part of the Commercial Property Investment Scheme as approved within the Capital Strategy and Capital Programme
Housing Revenue Account – Revenue Budget	No implications
Housing Revenue Account – Capital Programme	No implications

4. Risk:

Risk	**Likelihood**	**Impact**	**Overall**	**Mitigation**
The tenant does not renew the lease at expiry.	2 Unlikely	2 Significant	4 Low	1. Charnwood will establish and maintain a property reserve in the event of such a circumstance. 2. The reversionary letting rates and location are competitive and will not

				unduly disadvantage Charnwood, given the current circumstances. 3. Land values in this location are high, and significant development opportunities exist with this property.
The tenant moves staff/operations from this location to alternative locations, decreasing utilisation of the site.	3 Serious	2 Significant	6 Moderate	Regardless of how the tenant uses the space, the tenant remains liable under contract to maintain rent and insurance payments as well as to maintain the building. If the tenant wished to exit the lease and property early, they would be obligated to pay the balance of rents due under the lease. In this case, the tenant and Charnwood would enter (likely protracted) negotiations, during which Charnwood would be able to plan alternative strategies and develop business cases for viability determination. The nearest alternative location for this tenant is Southampton, 93 miles south of the location, making relocation unlikely. Further, letting rates for this property are below the market average, making this location better value for the tenant than alternative premises.
Tenant fails to pay rent	2 Unlikely	3 Serious	6 Moderate	The property reserve to be established will serve as a buffer and monies would be released to maintain cashflow. Simultaneously, Charnwood would take Legal action to recover any rents unpaid.
The property is destroyed (e.g. fire, flood or other)	1 Remote	3 Serious	3 Low	Charnwood will be insured against these risks and against the lost rent in the event of building destruction.
The macroeconomic impact of Brexit results in general economic difficulty.	3 Likely	2 Significant	6 Moderate	The Tenant Covenant is strong (Dun & Bradstreet 4A 1) and is likely to be able to withstand a period of trading difficulty. This will be monitored and managed. The Tenant has fared well during the course of the COVID19 pandemic to date. They remained operational as they are classed as an essential business. Retained profit and Net assets remain sizeable.
CIPFA updates Statutory Guidance relating to non-	2 Unlikely	2 Significant	4 Low	Charnwood is acting in line with the latest guidance (issued 18 November 2019). Should the guidance be updated further, Charnwood will respond accordingly. The

financial investments.				direction of anticipated changes is currently unknown. Should the guidance halt investment activity altogether, Charnwood must find alternative income sources and/or reduce expenditure accordingly to compensate.
Tenant's financial stability – the health and viability of the business	1	2	2 Very Low	Lloyds Bank Commercial Finance Ltd have a strong trading history and very well-established performance record.
Tenant Covenant	2	2	4 Low	Again, the tenant trades and performs well in normal circumstances and is addressing risks of the current pandemic.
Ratio of external Debt/Market value	1	1	1 Low	The purchase will be funded initially without borrowing, and if borrowed, is likely to be internal borrowing. However, prudence dictates that analysis with borrowings be undertaken to ensure the profitability of the investment.
Ratio of Purchase value/Investment pool value	2	2	4 Low	Consumes 31% of the £25M currently allocated in the Capital Plan. Net yields are outlined in Part B. Prudence dictates that the asset be monitored quarterly for performance.
Presence and timing of break clauses & rent reviews	2	2	4 Low	Rent reviews are 5-yearly, upwards only and are subject to open market value meaning that the property is not over-rented. Rents at this location are 70% of Grade A office space in the area. Lease end is 12 December 2025 , no further breaks.
Age and State of repair	1	2	2 Very Low	The property was constructed in 1999. The property is maintained fully by the tenant and is in very good repair. Lease clauses for dilapidations and reinstatements have been reviewed and provide ample recourse and protection to the property owner. On inspection, it was evident that the tenant exercises a high degree of maintenance and repair.
Strength of Market for use / letting	2	2	4 Low	Strong commercial location in the Oxford-Cambridge arc. Good reversionary re-let and development options exist.
Risk of revaluation loss	2	2	4	CIPFA requires LAs to make a prudent provision for MRP. Periodic valuation will

			Low	be necessary. Charnwood will establish a property reserve to protect cash flow.

4. Human Resources: None
5. Equality and Diversity: None
6. Sustainability Implications: None

Urgency

The proposed acquisition would be a key decision and the authorising report would contain exempt information, but the full 28 days' notice is unlikely to be possible due to the urgency of the matter.

In the circumstances, agreement was reached with the Chair of the Scrutiny Commission on 10th November 2020 that the decision was urgent and could not reasonably be deferred and was also exempted from Call-in. The call-in procedure provides for a period of five clear working days during which councillors can ask for decisions taken by the Cabinet and individual Cabinet members, and key decisions taken by officers to be reviewed. With the agreement of the Chair of the Scrutiny Commission or in her/his absence the Mayor or Deputy Mayor) a decision can be exempted from call-in if the decision to be taken is both urgent and reasonable and the delay caused by the call-in process would not be in the interests of the Council or the public. Scrutiny Committee Procedure 11.9 requires that decisions that are exempted from call-in are reported to Council.

NO LONGER APPLIES

Exemption

The report contains exempt information by virtue of paragraphs 3 and 5 of part 1 of Schedule 12A of the Local Government Act 1972 and in respect of which, the Proper Officer considers that the public interest in maintaining the exception outweighs the public interest in disclosing the information.

The report contains financial information relating to a proposed land transaction that is subject to contract which, if in the public domain, could adversely affect the Council's ability to achieve a favourable outcome. The report also contains information that is legally privileged.

Key Decision: Yes

Background Documents: None

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PART B

Detailed information

The Property Location

1. Banbury is an established commercial centre in North Oxfordshire, located 41 miles south east of Birmingham, 23 miles north of Oxford and 71 miles north west of Central London.
2. Banbury town centre benefits from significant infrastructure improvement, through a number of strategic council-led regeneration projects. The Council's vision is to regenerate the entire town centre, incorporating its scenic Canalside, Tramway Road, Bolton Road and the historic old town.
3. Banbury is located in the centre of the Oxford-Cambridge Arc, a leading area of economic interest. The Arc intends to capitalise on its established strength in the knowledge-intensive sectors of science, technology and innovation. The Arc is designated as a key economic priority with significant long-term growth forecasts.
4. The property lies on Banbury Cross Business Park, 1.3 miles north east of Banbury town centre and 250 metres west of junction 11 of the M40. The Property occupies a highly prominent position overlooking the A422 and M40 Motorway, situated on Brookhill Way at its junction with Wildmere Road. The A422, which abuts the southern boundary of the site, provides direct access between Banbury town centre and Milton Keynes.
5. The immediate vicinity benefits from a diverse occupier base, reflecting the area's proximity and ease of access to the town centre and road links. Significant surrounding retail and leisure schemes provide a range of amenities to the Property, alongside its accessibility to nearby centres.
6. The UK Government has designated the potential of the Cambridge – Milton Keynes – Oxford growth corridor known as The Arc, as a key economic priority and has entered into a joint declaration with its local authorities to identify it as a strategic belt.
7. The Arc contains some of the fastest growing and most productive conurbations in the UK. It has been recognised for its unique potential to become a world leading economic area, acting as a testbed for innovation, by building on its globally renowned universities and its particular strengths in science, technology and high value manufacturing.
8. The Arc's economy has outperformed the UK's average, with significant growth in employment, population and construction. Maximising the Arc's potential is predicted to increase its number and quality of jobs and encourage international investment and exports. The area already achieves a GVA of £111 billion a year, with a population of c.3.7 million and workforce of 2 million. Significant infrastructure investment is being made in recognition of the Arc's long-term prospects, with the Government targeting delivery of up to 1 million high quality homes within the Arc by 2050.

Property Specification and Inspection

9. The Property comprises a modern three storey office building of steel frame construction, beneath a pitched and tiled roof. Purpose built in 2000 by Prologis for Lloyds Bank, the building benefits from flexible floorplates arranged either side of a central core. All floors enjoy large floor to ceiling heights, affording excellent natural daylight.

10. Further specification items include:

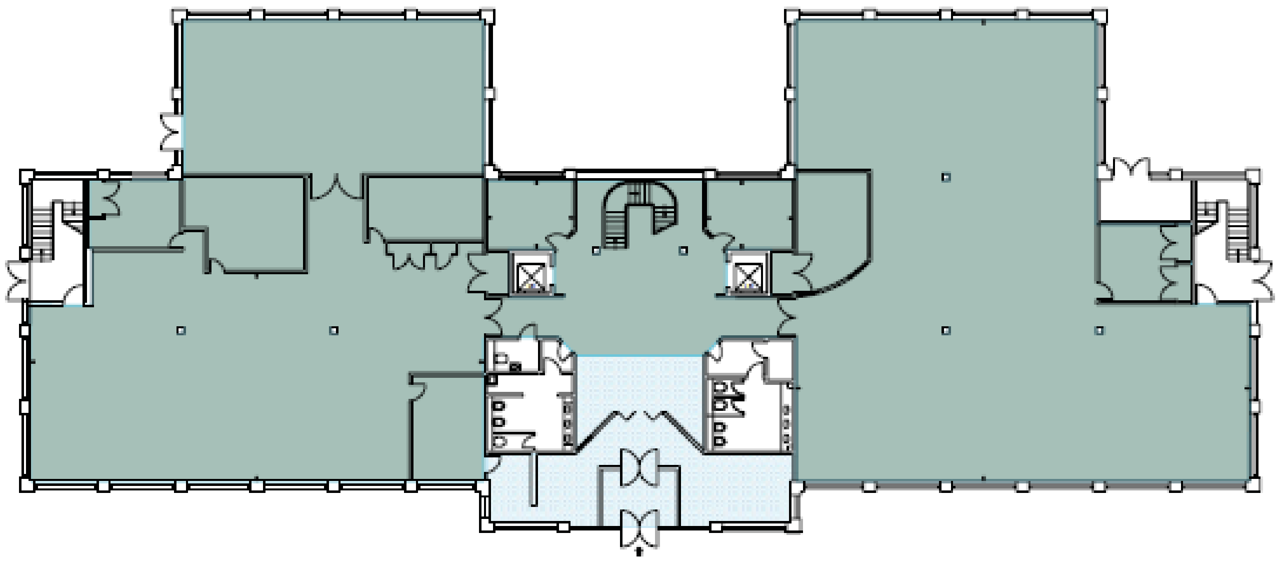
    - 4-pipe fan coil air conditioning
    - Full access raised floors
    - Suspended ceilings with recessed lighting
    - 2 x 10 person passenger lifts
    - Male and female WC's on all floors
    - In-house canteen
    - Shower facilities
    - Secure fence and barrier system

11. The Property also benefits from an outbuilding, within which the Tenant has installed a 4,000-litre diesel tank, backup generator and UPS. The Tenant additionally replaced four boilers in Q1 2020, which serve the central heating system.

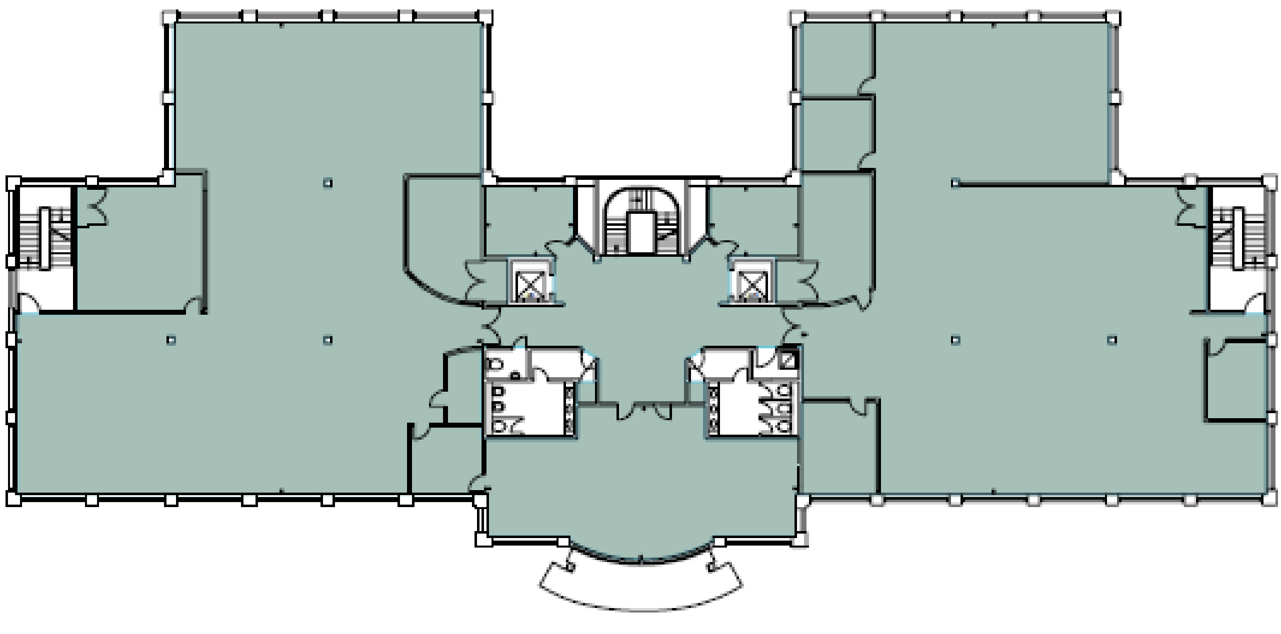
12. The property benefits from 183 car parking spaces providing a ratio of 1:184 sq ft.

13. Officers inspected the property on 15 September 2020 and found that the site presents as described. The Facilities Manager acted as escort through the building and noted that there are no issues identified with the property.

	GROSS INTERNAL AREA		NET INTERNAL AREA	
FLOOR	SQ M	SQ FT	SQ M	SQ FT
RECEPTION	-	-	82.03	883
GROUND	1,155.40	12,437	946.28	10,186
FIRST	1,158.00	12,465	1,046.43	11,264
SECOND	1,158.00	12,465	1,046.61	11,266
THIRD	179.30	1,930	-	-
TOTALS	3,650.69	39,297	3,121.35	33,599



GROUND FLOOR



TYPICAL UPPER FLOOR - SECOND FLOOR

Tenant

14. Lloyds Commercial Finance Ltd is a specialist division of Lloyds Banking Group. It provides a mix of asset-based lending and financial intermediation, including receivables finance and hire purchase of plant and equipment. The division is headquartered at the Property. Dun & Bradstreet rates Lloyds Commercial Finance Ltd as 4A 1, reflecting net assets of £18m and minimum risk.
15. As of 10 November 2020, Dun & Bradstreet's assessment of the business states:

    " a. Overall assessment of this organisation over the next 12 months: STABLE CONDITION

    b. Based on the predicted risk of failure: STRONG LIKELIHOOD OF CONTINUED OPERATIONS

    c. Based on the predicted risk of severely delinquent payments: MODERATE POTENTIAL

FOR SEVERELY DELINQUENT PAYMENTS"

16. There have been no Court Judgements against the tenant and no adverse financial events.

Tenure

17. The property is to be sold Freehold

Lease

The Property is entirely let to Lloyds Bank Plc and Lloyds Bank Commercial Finance Ltd as joint tenant by way of a 25 year full repairing and insuring lease expiring 12 December 2025, providing an unexpired term of approximately 5.5 years. The current passing rent of £539,682 per annum equates to a level of £16.28 per sq ft, allowing for half rate to the reception area.

The rent is subject to 5 yearly upwards only open market reviews, with the next rent review on 11 March 2021.

Legal Due Diligence

18. CBC's lawyers have extensively reviewed lease, title, and searches and have found no issues affecting the property that would prevent a purchase.

VAT

19. The property has been elected for VAT. It is intended that the property will be sold as a Transfer of a Going Concern**.**

Successful Bid

20. Over the 12 months to March 2020, the market for investment properties has struggled to bring forward many quality investments – most activity completed during the period was off market. The slowdown in movement was largely attributed to Brexit and fears of a No Deal scenario. Since March 2020 to date, this has been further impacted by the COVID19 Pandemic. This opportunity, however, remains a strong, investment with a robust tenant covenant.

21. Several Asset Management opportunities exist with the property. There is no indication that Lloyds would leave the location; however, if the tenant did exit at the end of the lease:

    - Despite major investment in the town, Banbury suffers from a significant lack of Grade A accommodation, such as this property. Therefore, a single let to another tenant is highly likely.
    - There is also flexibility to offer the building on multi let basis, given its layout.
    - The southern part of the site, which benefits from significant prominence to the A422 arterial route, could be redeveloped, leaving the original property in situ.
    - The property could be extended and/or reconfigured to provide high quality laboratory and office space capitalising on the Arc's exponential growth in R&D.
    - Wholescale future redevelopment of the site is also possible, with very strong residual land values.

22. The price offered by CBC and accepted by the Vendor is £7.25m, which reflects a 7% Net in Yield (NIY) after Purchaser's costs.

Financial Performance

23. The full financial performance of the asset is detailed in the appendix.

24. The purchase will be funded by prudential borrowing. Prudential borrowing can be met through internal borrowing or by external borrowing. However, prudence dictates that analysis with external borrowing be undertaken to ensure the profitability of the investment.

25. At the time of the initial investment it is **highly unlikely** that Charnwood will secure borrowing at 100% of the capital value due to its cashflow position and internal borrowing capacity; therefore, the MTFS will benefit from lower interest costs than shown in the above appraisal. However, the internal borrowing position and associated interest rate risk must be monitored and managed, and additional external debt may need to be taken in the future.

26. In order to understand the impact and contribution this asset will make to Charnwood's MTFS, asset performance must be aligned to the timing of Charnwood's Financial Year and for Charnwood's MRP policy to be applied with a likely level of borrowing. The table below, presented for illustrative purposes, shows the financial return after costs assuming that none of the capital value is externalised and a nominal interest rate, payable internally, is applied.

Financial Year	Annual Net Yield
20/21	2.100%
21/22	5.005%
22/23	4.968%
23/24	4.930%
24/25	4.890%
25/26	2.747%

APPENDIX – FINANCIAL PERFORMANCE

NO LONGER APPLIES

The appendix contains exempt information by virtue of paragraphs 3 and 5 of part 1 of Schedule 12A of the Local Government Act 1972 and in respect of which, the Proper Officer considers that the public interest in maintaining the exception outweighs the public interest in disclosing the information.

The report contains financial information relating to a land transaction that, if in the public domain, could adversely affect the Council's ability to achieve favourable outcomes in the future.

Financial Performance

27. At the level of the second bid, Charnwood's total transactions costs will be:

Bid	£7,250,000
SDLT	£352,000
Agency Fee	£72,500
Surveys	£15,000
Legal and Contingency fees	£43,500
Total Expenditure	**£7,733,000**

28. The purchase will be funded by prudential borrowing. Prudential borrowing can be met through internal borrowing or by external borrowing. However, prudence dictates that analysis with external borrowing be undertaken to ensure the profitability of the investment. Using PWLB rates (2.53% as of 05 November 2020) and borrowing 100% of the total expenditure, the maximum costs of finance are shown below:

Loan amount	**£7,733,000**
Type & term	40yr, Maturity, Fixed rate
Interest rate with certainty	2.73%
Potential borrowing costs per full financial year.	**£211,110.90**

29. The resulting worst-case asset financial performance is modelled below.

Lease year ending	**Rent rec'd in Lease year**	**MRP - straight line asset method**	**Finance costs**	**Net Rent rec'd in lease year**	**NIY after costs**
12/12/2020	£39,921.68	£0.00	£15,616.42	£24,305.26	0.31%
12/12/2021	£539,682.00	£193,325.00	£211,110.90	£135,246.10	1.75%
12/12/2022	£539,682.00	£193,325.00	£211,110.90	£135,246.10	1.75%
12/12/2023	£539,682.00	£193,325.00	£211,110.90	£135,246.10	1.75%
12/12/2024	£539,682.00	£193,325.00	£211,110.90	£135,246.10	1.75%
12/12/2025	£539,682.00	£193,325.00	£211,110.90	£135,246.10	1.75%

30. An important point to note: the straight line MRP method above is implied within the current Capital Strategy, but reports will be brought for approval to Council on 9 November 2020 whereby Charnwood will adopt the annuity life MRP method – a standard approach exemplified in the Code - as this is more

appropriate for commercial property investments. As such, the MRP charges above will be less than those above. (i.e. Charnwood pays less MRP in early years and more in later years). In the remaining current financial year (2020/21) under either method, there will be no MRP payable.

31. At the time of the initial investment it is **highly unlikely** that Charnwood will secure borrowing at 100% of the capital value due to its cashflow position and internal borrowing capacity; therefore, the MTFS will benefit from lower interest costs than shown in the above appraisal. However, the internal borrowing position and associated interest rate risk must be monitored and managed, and additional external debt may need to be taken in the future.

32. In order to understand the impact and contribution this asset will make to Charnwood's MTFS, asset performance must be aligned to the timing of Charnwood's Financial Year and for Charnwood's MRP policy to be applied with a likely level of borrowing. The table below, presented for illustrative purposes, shows the financial contribution assuming that none of the capital value is externalised and a nominal interest rate of 0.5%, payable internally, is applied.

Charnwood Financial Year	Rent rec'd in Financial Year	MRP - annuity life method	Finance Costs	Net Rent in Financial Year	Annual Net Return
20/21	£201,086.99		£38,665.00	£162,421.99	2.100%
21/22	£539,682.00	£113,967.10	£38,665.00	£387,049.90	5.005%
22/23	£539,682.00	£116,850.46	£38,665.00	£384,166.54	4.968%
23/24	£539,682.00	£119,806.78	£38,665.00	£381,210.22	4.930%
24/25	£539,682.00	£122,837.89	£38,665.00	£378,179.11	4.890%
25/26	£377,038.11	£125,945.69	£38,665.00	£212,427.42	2.747%

APPENDIX – HEADS OF TERMS

ADS | REAL ESTATE ADVISORS

AGREED HEADS OF TERMS
Instruction: Lloyds, Banbury

Subject to Contract

Date:	10 November 2020
Property:	1 Brookhill Way Banbury Cross Business Park Banbury OX16 3EL
Purchase Price:	£7,250,000 (Seven Million, Two Hundred and Fifty Thousand Pounds)
Vendor:	Banbury MHA Ltd
Vendor's Agent:	ADS Real Estate Advisors Bond House 19-20 Woodstock Street London W1C 2AN FAO: Simeon Cohen DD: 07500 333 640 Email: simeon@adsre.co.uk
Vendor's Solicitor:	Fladgate LLP 16 Great Queen Street London WC2B 5DG FAO: Matthew Williams DD: 020 3036 7236 Email: mwilliams@fladgate.com
Purchaser:	Charnwood Borough Council
Purchaser's Agent:	Jones Realty 83 Baker Street London W1U 6AG FAO: Andy Byrne DD: 07779 611 765 Email: andy@jonesrealty.co.uk

Purchaser's Solicitor:	Bevan Brittan LLP Fleet Place House 2 Fleet Place London EC4M 7RF FAO: Ian Caplan DD: 0370 194 7738 Email: ian.caplan@bevanbrittan.com
Property Information:	The Property comprises an office building totalling 33,599 sq ft NIA. The Property is let to Lloyds Bank Plc and Lloyds Bank Commercial Finance Ltd as joint tenant by way of a Full Repairing and Insuring lease expiring 12 December 2025. The current passing rent is £539,682 per annum and is subject to an upwards only open market review on 11 March 2021.
Tenure:	Freehold.
Funding:	The acquisition is to be fully funded from existing cash resources. No third party finance is required.
Conditions:	Subject to: ▪ Contract; ▪ Assignment of Measured survey; ▪ Building survey, which is to be undertaken by the Vendor and assignable to the Purchaser. ▪ Environmental survey; ▪ Searches are to be undertaken by the Vendor, for which the Purchaser is to be provided with reliance; and ▪ Verification of information contained within the sales details and satisfactory due diligence.
Timing:	Simultaneous exchange and completion of contracts is to occur on 16 November 2020.
Approvals:	The Purchaser has obtained Charnwood Borough Council Capital Strategy approval. The Purchaser requires the Leader of the Council to sign a Delegated Decision Record (DDR), which is a constitutional governance requirement. The DDR is to be secured within 5 working days from agreement of Heads of Terms.

Capital Allowances:	The Vendor is to retain the benefit of any Capital Allowances.
VAT:	The Property is elected for VAT. It is envisaged that the transaction will be treated as a Transfer Of a Going Concern (TOGC).
Costs:	Each party is to be responsible for their own costs, with the exception of those relating to the building survey. The parties agree that 50% of the survey cost + VAT will be borne by the Purchaser by way of completion statement adjustment. Should the Purchaser withdraw from the transaction upon the terms agreed herein, it will remain liable for its share of the building survey cost, to be payable within 15 working days of withdrawal. Should the Vendor withdraw from the transaction upon the terms agreed herein, it will bear the full cost of the building survey.
Anti Money Laundering:	The Purchaser and Vendor agree to provide the necessary information within a timely manner to allow their respective Agents to undertake and clear Anti Money Laundering Checks prior to an exchange of contracts.
Exclusivity:	The Purchaser is to benefit from an exclusivity period until 16 November 2020.