

Response ID ANON-E5NH-8NTE-F

Submitted to High Street Rental Auctions Technical Consultation

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High Street Rental Auctions

Introductory and characteristics questions

1 In what capacity are you responding to this consultation?

As an officer of a local authority

2 In what location is your head office or main place of business based?

Greater London

Introductory and characteristic questions 6

10 What type of authority is your local authority?

London borough

Auction Process

Auction Process Consultation Questions

Level of detail of non-statutory guidance

11 On a scale of 1 to 10, how prescriptive should the legislation and guidance be for the auction process overall? (1 = not very prescriptive, only mandatory elements should be set out in guidance, 10 = very prescriptive, all aspects of the process should be set out in step-by-step guides for local authorities and other parties to follow.)

7

Auction Packs

12 Please consider the list of information we propose to include in the marketing brochure and the legal pack. This can be found in the HighStreet Rental Auction Consultation Document under the 'Auction packs' chapter. Will it be possible to provide this type of information for the auction pack within the timing window (minimum of 3-4 weeks) for the auction process?

Don't know

13 From the above list of items to be included in the pack, are there any items that could be removed?

Nothing should be removed

14 Is there anything missing from the auction packs, which you think bidders would want to see? If so, please explain what is missing and what should be included.

Is there anything missing from the auction packs? If so, please explain what is missing and why it should be included:

Agents and legal and all other fee amounts

Covering letter – to explain to the site conditions and existing use as well as any planning restrictions

Marketing Process

15 Please use the grid below to indicate which of the following marketing strategies should be: • Mandatory (should be specified in the regulations) • Recommended or optional (for use in the non-statutory guidance)

Marketing Strategy - Advertise the property on the internet (but not mandated to specific websites):

Mandatory

Marketing Strategy - Name specific websites to advertise the property on (e.g., Rightmove):

Mandatory

Marketing Strategy - Local authority to list all potential HSRA properties on their website (any property that has been served an initial notice): Mandatory

Marketing Strategy - Promote the property using social media:
Recommended/Optional

Marketing Strategy - List the property in local newspapers: Recommended/Optional

Marketing Strategy - Minimum length of time the property should be marketed for: Mandatory

Marketing Strategy - Targeted marketing using local business and organisation membership groups (e.g., Business Improvement Districts):
Recommended/Optional

Marketing Strategy - An offer for potential bidders to view the property: Mandatory

Marketing Strategy - Professional photos of the property: Recommended/Optional

Marketing Strategy - A floor plan: Recommended/Optional

Marketing Strategy - A To Let board outside the property: Recommended/Optional

16 What should be the minimum marketing period for each High Street Rental Auction property?

More than 4 weeks Reserve

Price

18 Should there be a reserve price for properties that are subject to a High Street Rental Auction?

Depends on the property

19 If a reserve price was used, how should the reserve be set?

Local authority discretion

Proposed Auction Process

21 Do you agree that the proposed sealed-bid auction process outlined in Annex C should be used as the auction process for High Street Rental Auctions?

Yes

Streamlining The Process

23 [Local authorities only] Do you consider the process as it currently stands as too burdensome for local authorities?

Yes

24 Are there any ways in which the process might be streamlined or simplified (especially for local authorities)? If so, please specify.

Ways in the process might be streamlined:

To develop a system where greater onus is placed on the landlord to evidence the benefits of use etc. The process needs more clarity regarding the costs allocation and recovery, including intermediary fees, and full indemnity for the actions of the authority. Less burdensome approaches may be available, rather than creating a complex and heavily local authority administered regime – financial penalties /taxation on owners.

Outsourcing Options

25 Do you agree the local authority should have a choice whether to outsource the process?

Yes

The Standardised Lease

High Street Rental Auction Costs

26 Who should pay the costs associated with the following?

who should pay - Surveying the Property: Landlord,
Tenant

who should pay - Marketing: Landlord,
Tenant

who should pay - Running the auction: Landlord,
Tenant

who should pay - Solicitor's fees (incurred by a local authority) for preparing the auction pack and preparing the legal agreements and completing these with the successful bidder: Landlord, Tenant

who should pay - Searches and surveys to be included in the auction pack: Landlord, Tenant

Landlord Works

The Minimum Standard

27 The standard proposed is sufficient to take the property to auction and encourage bids from prospective tenants. Do you agree?

Agree

28 The list of works strikes a fair balance between what a landlord is expected to do to take the property to auction and encourage bids from prospective tenants, and what the tenant will need to do thereafter by way of fit out. Do you agree? Yes, it strikes a fair balance

Remedies

29 Do you agree with the proposed remedies to be included in the agreement for lease?

Yes

Subletting

32 Should tenants be able to sublet their tenancy?

Yes, but only in whole with landlord's consent (not to be unreasonably withheld or delayed) Subdividing

33 A local authority should be able to divide larger premises up and auction off separate sections. Do you agree?

Neither agree nor disagree

34 Please provide your reasoning for the above answer. explain your reasoning:

There may be benefits for the Council to divide larger premises to increase the uptake of vacant properties. However, this will be added to the Council's time, resources, and expense.

Alterations and Tenant Fit Out

35 Do you agree with the proposal?

Yes

36 Please explain your answer (to the above question)

explain your reasoning:

The current proposal has a balance between roles and responsibilities and does not put excessive burden onto landlords.

37 In carrying out their fit out works, should the tenant be able to do works to, or which affect, the external parts (including shop front), or structural elements of the building?

Yes – with the landlord's consent (not to be unreasonably withheld or delayed)

38 Do you think the tenant should have a rent-free period for carrying out its fit out works?

No

Definition of Premises

39 Where the property is the whole of a building, we propose to use a simple red line plan with a general description in words to define the tenant's demise. Do you agree with this proposal?

Yes

40 (If 'no' selected to previous question) Please explain your answer.

explain your reasoning:

41 Where the property forms part of a building, we propose that the tenant's demise will be of an interior demise only, with external and structural parts being retained by the landlord. Do you agree with this proposal?

Yes – but in appropriate cases parts of shop fronts (including glazing, frames, and entrance doors) should be demised to the tenant

42 (if no selected to previous question) Please explain your answer explain your reasoning:

Definition of Premises 2

43 Where external and structural parts are retained by the landlord, we consider there may be need for the tenant to be granted additional rights which allow it to attach into such retained parts for the purpose of its fit out – do you agree the tenant should be given these rights?

Yes – with landlord's consent (not to be unreasonably withheld or delayed) 44 (If 'no'

selected to previous question) Please explain your answer.

explain your reasoning:

Existing Fit Out

45 Do you agree with the proposal?

Yes

46 Please explain your answer (to the above question).

explain your reasoning:

Rent Deposit

47 Do you agree with the proposal?

Yes

48 Please explain your answer (to the above question). explain your reasoning:

The Council agrees with the proposal, however this may dissuade some bidders and uses e.g. VCS.

Repairs and Decoration

49 We recommend that the tenant should be liable to pay for repairs to its demised premises, but only to the standard shown by a schedule of condition taken after the landlord has carried out any works to bring the property up to the minimum standard- do you agree?

Neither agree nor disagree

50 Please provide your reasoning (for the answer provided to the above question). explain your reasoning:

This varies on a case-by-case basis and is difficult to determine at this stage.

Service Charge

51 Do you agree with this proposal?

No

52 Please explain your answer (to the above question). explain your reasoning:

This should be resolved to prevent policy ambiguity and to mitigate later issues.

Utilities

53 Which utilities do you think the landlord should be obliged to supply?

None of the above.

Minimum Energy Efficiency Standard (MEES)

54 Do you agree this is a proportionate and sensible measure?

Strongly disagree

55 Please provide your reasoning (for your answer to the above question) explain your reasoning:

Lettings made through the High Street Auction will disapply the minimum energy efficiency standards, this is slightly troubling given the Council's green commitments. For example, the EPC standard is set out in the Council's B.1.iv of Climate Change Action Plan, which sets out Southwark's approach and strategies to mitigate the climate emergency. Moreover, the removal of EPC requirements will have negative implications (carbon emissions from heating; damp & mould growth). Therefore, this should be considered carefully.

Permitted Development Rights

Consultation Questions for PDRs

56 Do you agree that a new Permitted Development Right should be introduced that would permit the change from the existing use of high-street premises to a suitable high street use as determined by the local authority for the period of lease?

Don't know/Not sure

57 Please explain your answer (to the above question). explain your reasoning:

The Council is generally supportive with the proposed with the PDRs (for the period of lease) but notes an evidence base would need to be developed to determine how these PDRs would work in different sites and uses in Southwark. The allocation of the high street rental auction in certain highstreets in Southwark may be able to help decrease vacancy rates in certain areas of Southwark and limit Class E conversions to residential units in the Highstreet.

However, it is important that this should still be under the Council's discretion. There is not enough detail of what permitted uses this PDR will cover. Change of use from Class E to Class F or pubs may be beneficial for the high street. The introduction of Class E already introduced significant flexibility for the high street without the need for planning permission. However, our policies are already sufficiently flexible where the proposed use of high street properties should allow for active ground floor uses to provide a service to the public that would not harm the vitality and viability of the high street. Moreover, Southwark Council has recently adopted our development plan, the Southwark Plan 2022, which is supported by local evidence. In order to supply the local economy demand, the development plan has set targets for certain uses such as retail, office and light industrial to supply such demand. It is crucial uses identified in the local plan are retained and increased where it is supported and justified by local evidence.

Setting PDRs only where there is the High Street Rental Auction will enable to apply recent evidence and expertise from other departments in the Council. For example, considerations of health (incl. obesity) and health inequalities (e.g., restrictions on/user clauses for hot food takeaways and other High Fat Salt Sugar food outlets).

The Council's role in setting where the High Street Rental Auction/s and PDRs are placed are important to ensure uses will be retained and plans are in accordance with the local plan, such as active frontages.

58 As only uses suitable for the high street can be introduced, do you agree that this Permitted Development Right should not be subject to prior approval by the local authority?

No

59 Please explain your answer (to the above question). explain your reasoning:

Prior approvals will ensure applications meet the conditions/limitations as set out in the GDPO. It will also ensure changes between use classes can be monitored and reported where needed.

60 To align with the scope of high street rental auctions, it is proposed that the Permitted Development Right will not have a size limit on premises, exclude listed buildings or premises in Article 2(3) land. Do you agree?

No

61 Please explain your answer (to the above question). explain your reasoning:

We do not agree that the right should provide an exclusion on listed building or premises in Article 2(3) land. It is important that local planning decision-making conserve and enhance the historic and natural environment, as set out in paragraphs 170-172 and 189-190 of the NPPF. Development in conservation areas should be of high quality and only be granted where it preserves or enhances the character or appearance of the conservation area and historic environment.

There should be a size limit to ensure the suitability of a use class in large buildings. Planning applications should be sought to assess the impacts of the major development. Large retail development also often requires retail impact assessments and sequential tests to determine the suitability of the use and assess the viability and vitality of the retail use in the proposed area. Setting a size limit will also ensure the delivery of adopted and emerging policies such as commercial, business and service uses can be managed

according to the policies in local plans. This will ensure major development would adhere to local plan policies for example affordable workspaces and development s106 contributions such as jobs, training and local procurement. A further PDR for the ongoing use of the building after the HSRA period

Local Consideration Through Prior Approval

62 Where Permitted Development Rights enable the continued and permanent use of that premises, for the lease use, do you agree that it is subject to prior approval by the local authority enabling consideration of whether the continued use of the premises would have an adverse impact on the area?

Yes

63 Please explain your answer (to the above question). explain your reasoning:

A prior approval is essential to ensure the proposed use has considered negative impacts, that conditions of the GPDO or has concluded that submission of a full application is more appropriate

Prior Approval Application Fee

64 If introduced, do you agree that a fee of £96 (current figure) should be charged for a prior approval application for the permanent change of use?

No

65 Please explain your answer (to the above question) explain your reasoning:

The Council has higher planning fees for prior approvals from sui generis uses such as casinos and betting shops to certain Class E uses such as restaurants and cafes. The planning fee is for £206 if it includes building operations in connection with the change of use.

Public Sector Equality Duty and Impact Assessment

Sealed-Bid Auction Process

66 Do you believe the sealed-bid process outlined in Annex C of the High Street Rental Auctions Consultation Document may give rise to disproportionate impacts on groups with protected characteristics? (Age; Disability; Gender Reassignment; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation).

Don't know

Agreement for lease and standardised lease

68 Do you think that the proposed clauses within the agreement for lease and standardised lease for a High Street Rental Auction could give rise to disproportionate impacts on people who share a protected characteristic? (Age; Disability; Gender Reassignment; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation).

Don't know

Initial Permitted Development Right

70 Do you think that any of the proposed changes in relation to a new Permitted Development Right for a High Street Rental Auction could impact on: a) businesses b) local planning authorities c) communities?

Yes

Initial Permitted Development Right 2

71 Please explain why you think that any of the proposed changes in relation to a new Permitted Development Right for a High Street Rental Auction could impact on: a) businesses b) local planning authorities c) communities? explain your reasoning:

The High Street Rental Auction may increase the publicity of the vacant property. However, it is unknown, the level of steer the local planning authorities would have of the High Street Rental Auction process, therefore, it may limit local planning authorities from taking a genuinely plan-led approach, as set out in paragraph 15 of the NPPF. It is important that where the PDRs are placed should still be under the Council's discretion. The proposed PDRs should only be introduced in certain scenarios and in main shopping areas where the proposed high street use has active ground floor uses to provide a service to the public that would not harm the vitality and viability of the high street. Shops outside town and local centres should be safeguarded therefore the Council requires marketing evidence for the loss of shops outside town centres. Introducing the PDR outside of town centres would be detrimental to safeguarding local shops which have an important service for local people, therefore our policy requires marketing evidence. This should be in the period of two years to ensure sufficient attempts have been made to find a suitable occupier. The Council is open to reducing vacant premises in the borough's main highstreets, but the High Street Rental Auction may remove landowner rights and consultation with the local communities.

Communities may not be able to shape their surroundings as it is unknown the level of community engagement during the High Street Rental Auction.

Initial Permitted Development Right 3

72 Do you think that proposed changes in relation to a new Permitted Development Right for a High Street Rental Auction could give rise to disproportionate impacts on people who share a protected characteristic? (Age; Disability; Gender Reassignment; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation).

Don't know

Further Permitted Development Right

74 Do you think that any of the proposed changes in relation to a new Permitted Development Right to provide additional flexibility following the end of the High Street Rental Auction period could impact on: a) businesses b) local planning authorities c) communities? Yes

Further Permitted Development Right 2

75 Please explain why you think that any of the proposed changes in relation to a new Permitted Development Right to provide additional flexibility following the end of the High Street Rental Auction period could impact on: a) businesses b) local planning authorities c) communities?

explain your reasoning:

The Council agrees with the flexible approach at the end of the High Street Auction period as long as that the proposed new use is within a main shopping area and allows for active ground floor uses to provide a service to the public that would not harm the vitality and viability of the high street.

However, may remove property rights to landowners. Communities may not be able to shape their surroundings as it is unknown the level of community engagement during the High Street Rental Auction.

Further Permitted Development Right 3

76 Do you think that proposed changes in relation to a new Permitted Development Right to provide additional flexibility following the end of the High Street Rental Auction period could give rise to any impacts on people who share a protected characteristic? (Age; Disability; Gender Reassignment; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation).

Don't know

Safeguards for landlords

78 Do you consider there should be any other safeguards for landlords in the process?

Yes

Safeguards for landlords 2

79 Please give further details of what additional safeguards could be added into the process.

give further details:

Yes, landowner property rights. The draft policy is still too open-ended and may lead to litigation if property rights are not addressed.