

Report to: Lead Member for Resources

Date of meeting: 10 December 2019

By: Chief Operating Officer

Title: The Charter Centre, Bexhill

Purpose: To seek Lead Member approval to grant a new 20-year lease (sub-lease) to SCDA

RECOMMENDATIONS

The Lead Member for Resources is recommended to:

- 1) Agree the implementation of a new 20 year lease to replace the existing agreement Tenancy at Will and any associated legal documentation associated with enabling this rental; and***
 - 2) Agree to delegate authority to the Chief Operating Officer to approve the details of the new lease (sub-lease) and associated Deed of Variation***
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1 Background

1.1 In 2018, The Sussex Community Development Association's (SCDA) contract for offering Adult Social Care at the Charter Centre was terminated by East Sussex County Council (ESCC) following a consultation into the closure of several facilities across the County. The group remained in occupation of the property under the provision of a Tenancy at Will.

1.2 SCDA expressed an interest in occupying the property for a longer-term basis to facilitate a community offer for the people of Bexhill. While initial discussions suggested the required term would be approximately 5 years, SCDA requested a longer period of 20 years so that they may obtain external funding and attract external interest for longer periods.

1.3 ESCC discussed the principle of surrendering their interest on this leasehold asset however, ESCC's landlord Optivo were unwilling to agree a surrender of the 71-year unexpired lease term, requesting instead that ESCC assign their interest. ESCC's preferred route was subletting the property which was permitted under the terms of the lease. Optivo have since approved the principle of the sublease.

1.4 The existing lease between ESCC and Optivo would require a minor amendment to allow the use clause to be widened for SCDA's expanded remit.

2 Supporting information

2.1 After liaising with Optivo and SCDA, a proposal was developed. This involved obtaining a Deed of Variation that widened the use clause so that it would not be restricted to "*not to use the property or any part of it except for any use to warden care accommodation and day centre ('use allowed') nor to allow anyone else to do so*". Then subsequently a sublease could then be issued for a 20-year period with break clauses every 5 years allowing SCDA to occupy the property for their intended purpose.

2.2 The new sublease would be dated from early 2020 allowing for Orbis Legal Services to fully engage with the sub-tenant's legal advisors and draft the documentation based on the outline Heads of Terms.

2.3 As explained before, Optivo as ESCC's Landlord have not expressed objections to the proposal.

2.4 Financial Impact: The decision to close the service in 2018 came with the issue that ESCC had 71 years unexpired term at the Charter Centre. ESCC remain legally responsible for

the payment of all associated costs with our occupation of the unit. SCDA are willing to take on the space and the responsibility of these payments until the expiry of the sub-lease. We will contract with SCDA to indemnify ESCC against all on-going costs such as service charge and non-domestic rates.

2.5 The agreement will look to reduce ESCC's on-going liability but also offers the opportunity to take the property back (at five year intervals) should day care be required in this locality.

3. Conclusion and reasons for recommendations

3.1 It is recommended that the Lead Member agrees for ESCC to approve a Deed of Variation for the existing lease and grant a new 20-year lease from 2020, subject to appropriate further due diligence, in order that SCDA may take over the financial obligations of the property and indemnify ESCC fully against all property cost while delivering a community provision.

3.2 It is recommended that the Lead Member agrees to delegate authority to the Chief Operating Officer to approve the details of the new 20-year sub-lease.

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Chief Operating Officer

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