

**Report to:** Lead Member for Resources and Climate Change

**Date of meeting:** 20 September 2022

**By:** Chief Operating Officer

**Title:** Updated lease arrangements for accommodation at the Performing Arts Centre, Mountfield Road, Lewes.

**Purpose:** To approve updated lease arrangements to allow continued service delivery by the Council and partner organisations at the Performing Arts Centre, East Sussex College campus, Lewes

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## **RECOMMENDATIONS**

*The Lead Member for Resources and Climate Change is recommended to:*

- 1) approve the surrender of the existing head lease of parts of the Performing Arts Centre between East Sussex College Group and East Sussex County Council (as Trustee of East Sussex Music Trust).
- 2) approve East Sussex County Council (as Trustee of East Sussex Music Trust) to take a new 20-year lease of the same accommodation at the Performing Arts Centre from East Sussex College Group on similar terms to the existing lease.
- 3) approve the grant of an underlease for 20 years (less one day) from East Sussex County Council (as Trustee of East Sussex Music Trust) to East Sussex College.
- 4) delegate authority to the Chief Operating Officer to determine the detailed terms of the head lease and underlease and take any other legal agreements considered appropriate to give effect to these decisions.

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## **1 Background**

1.1 In this report, the following definitions are used:

- **The Academy:** East Sussex Academy of Music.
- **BDF:** Brighton Dome and Festival Ltd.
- **The College:** East Sussex College Group.
- **ESCC:** East Sussex County Council.
- **ESFA:** Education and Skills Funding Agency.
- **The PAC:** the Performing Arts Centre at Sussex Downs College, Mountfield Road, Lewes, East Sussex, BN7 2XH.
- **The Trust:** East Sussex Music Trust.
- **The Existing Head Lease:** a lease of parts of the PAC dated 23 October 2003 between the College and ESCC (as trustee of the Trust).

- 1.2 This report sets out the proposed revised property leases and occupational agreements that need to be in place to ensure that services can continue to be delivered in the same way with no additional financial implications for ESCC. It also allows the Council's previous capital investment in this asset to be protected going forward. The outlined recommendations reflect the historic capital investment by ESCC, funding streams for post-age 16 provision and revised service models/Trust arrangements operating from the PAC. Therefore, the property leases and structure of agreements are not straightforward but enable ongoing provision.
- 1.3 The PAC is situated on the College's campus and the freehold is owned by the College. The location is shown at Appendix 1. The Trust was set up in 1999 to support music education in the County and ESCC is the Trust's sole trustee. The purpose of the Trust is to advance education by promoting the study and practice of music amongst students of all ages normally resident in East Sussex. The Trust currently occupies a number of rooms at the PAC pursuant to the Existing Head Lease at a peppercorn rent.
- 1.4 Some rooms in the accommodation within the Existing Head Lease are used by the Academy, an ESCC service that delivers A level and BTEC music courses on behalf of the College. Other rooms are used by East Sussex Music Service, another ESCC service who have already contracted their services out to BDF.
- 1.5 The Existing Head Lease expires in August 2023 and must therefore be addressed in order to ensure ongoing service provision. There is an important right for ESCC (as trustee of the Trust) to renew the lease for a further 20 years on the same terms, including the right to a further renewal.
- 1.6 The Trust contributed to the build cost of the PAC in 2002. Details are presented in the associated Exempt report.

## **2 Supporting Information**

- 2.1 ESCC had wished to include the Academy courses in the BDF contract with the East Sussex Music Service, but this is not permissible under ESFA rules on secondary contracting. To retain the funding and make the Academy courses financially viable, the College needs to contract those services directly, but BDF will require use of the PAC to deliver the Academy courses. This requires ESCC to sublet the parts of the PAC used for the Academy courses to the College so that the College may then further sublet to BDF (or such other provider that may provide the Academy courses in the future). The parts of the PAC not sublet back to the College will be retained by ESCC (as trustee of the Trust) to deliver the East Sussex Music Service (currently via their contract with BDF). It is important that both services remain co-located and ESCC need to retain a legal interest in the PAC to protect the original capital investment and the Music Service accommodation.
- 2.2 ESCC will need to grant an underlease to the College of the accommodation presently in use by the Academy for the courses. For service provision and business development a 20-year (less one day) underlease is proposed. Since an underlease cannot be longer than the head lease from which it is derived, it is proposed that ESCC (as Trustee for the Trust) surrender its existing lease which expires in 2023, for a similar replacement lease for a 20-year term at no additional cost to ESCC.
- 2.3 The new lease terms will be similar to the current lease terms and contain the same rights of renewal every 20 years. The accommodation will be the same as in the current head lease and is shown at Appendix 2.

- 2.4 The new underlease to the College will be for the accommodation currently used by the Academy only, shown at Appendix 3. ESCC (as trustee of the Trust) will retain the use of the remainder of the PAC, currently used for delivery of the East Sussex Music Service.
- 2.5 To comply with the requirements of the Charities Act 2011 a Qualified Surveyors Report has been obtained. As required, the proposed lease structure was advertised in the Sussex Express on 01 and 08 July and no comments were received in response.
- 2.6 Further details on the background and proposed arrangements are presented in the Exempt report later in the agenda.

### **3 Conclusion and reasons for recommendations**

- 3.1 The Lead Member for Resources and Climate Change is recommended to agree for the Council, as Trustee for the East Sussex Music Trust, to the lease arrangements set out in this report to enable ESCC to work with partner organisations to put in place the future arrangements for the PAC. These arrangements ensure continued delivery of the current service at no additional cost to ESCC.
- 3.2 Therefore it is recommended the Lead Member for Resources and Climate Change:
- approves the surrender of the current lease;
  - approves ESCC as Trustee for the Trust entering into a new 20-year lease for the accommodation shown at Appendix 2;
  - approves ESCC as Trustee for the Trust entering into an underlease with the College for the accommodation shown at Appendix 3, for a term of 20 years (less one day); and
  - delegates authority to the Chief Operating Officer to approve the terms of the leases and take any other associated property agreements and actions considered appropriate to give effect to these decisions.

**Ros Parker**  
**Chief Operating Officer**

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#### LOCAL MEMBERS

Councillor Wendy Maples

#### Documents:

- Appendix 1: Location plan
- Appendix 2: Lease plan for proposed new lease
- Appendix 3: Lease plan for proposed underlease