

Report to: Lead Member for Resources and Climate Change

Date of meeting: 11 July 2023

By: Chief Operating Officer

Title: Corporate office estate: new lease for St Mark's House, Eastbourne - revised lease terms following negotiation

Purpose: To update the Lead Member on progress towards a new lease of St Mark's House for use as part of the Corporate Office provision and to delegate powers to the Chief Operating Officer to conclude the negotiations

RECOMMENDATIONS

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

- 1) note the progress of negotiations with the Landlord for a new lease of St Mark's House, Eastbourne;
- 2) delegate authority to the Chief Operating Officer to:
 - a) approve the final lease terms, including the most appropriate time period for the new lease;
 - b) authorise the signing and completion of the lease by the Council;
 - c) serve any necessary notices or counter notices and to surrender the original lease and approve any related documentation; and
 - d) take any other actions considered appropriate to give effect to the above recommendations.

1 Background

- 1.1 The Council is undertaking a review of its corporate office requirements, as a key part of the Council's Asset Management Plan 2020-2025, to drive efficiency from its assets and to reduce costs and carbon emissions.
- 1.2 The Council currently has two office bases in Eastbourne: St Mary's House and St. Mark's House. As part of the Asset Management Plan, it is proposed that the Council moves to a single base in Eastbourne.
- 1.3 St Mark's House, Eastbourne, currently provides the sole office base in Eastbourne for Children's Services, who also work very closely with different partner agencies. The building is not owned by the Council, it is a leased property. A plan showing the location of the property is shown at Appendix 1.
- 1.4 At his decision making meeting on 24 January 2023 the Lead Member for Resources and Climate Change approved the Council entering into a 12-month lease for use of St Mark's House as part of the Corporate Office provision, to take effect from 14 April 2023.
- 1.5 The term of the original lease expired on 13 April 2023. It was originally proposed (as set out in the 24 January 2023 report to Lead Member) to enter into a 12-month

lease to commence at the end of the term of the original lease, i.e. from 14 April 2023. To date, no new lease has been entered into.

- 1.6 The Council is instead currently 'holding over' on the terms of the original lease while lease renewal negotiations have been ongoing. The original lease is protected by the security of tenure provisions contained within the Landlord and Tenant Act 1954. While a tenant is 'holding over', they must abide by the terms of the existing lease, including any obligations to repair and pay rent. They may vacate at any time on three months' notice. The Landlord must serve a formal 'Section 25' notice on the tenant to bring their lease to an end. This notice must give the tenant a minimum of six months' notice to vacate and is only valid if at least one of the seven grounds contained within the Act can be satisfied. These grounds range from 'fault' grounds such as non-payment of rent, through to 'non fault' grounds such as an intention to demolish or reconstruct the building.
- 1.7 Currently, no Section 25 notice has been served by the Landlord, although we are aware that the Landlord has plans to re-develop the site in due course. The Landlord retains the right to serve a Section 25 notice at any time until a new lease is granted.
- 1.8 A new lease for St Mark's House is therefore still required to allow sufficient transition time to relocate children's services staff currently operating from there to alternative sites. The new lease will assist the Council in further planning of its ongoing provision of office accommodation in Eastbourne.
- 1.9 Negotiations with the landlord for the new lease have been ongoing and it is now provisionally proposed to enter into a longer lease of 18 months, with a break clause after 12 months, which will provide the Council with some flexibility if further time is needed to prepare and refurbish alternative office accommodation. In return for providing this level of flexibility to the Council, the Landlord will require the new lease to be contracted out of the provisions of the Landlord and Tenant Act 1954, meaning the Council will not have a right to hold over and remain in the premises after the expiry of the extension period.

2 Supporting information

- 2.1 On 20 June 2023, a fire broke out at St. Mark's House. Due to damage caused by the fire, it has been necessary to temporarily close the building and for staff that usually work from St. Mark's House to work from alternative locations. However, this is anticipated to be a short term disruption and so it is still appropriate to take steps to ensure a planned transition over a twelve to eighteen month period can be implemented.
- 2.2 The new proposed lease, once agreed, will be backdated to 14 April 2023 and will include a tenant-only break option after 12 months. This break option will enable the Council to vacate at that point if alternative premises are ready for occupation before the expiry of the agreed extension period.
- 2.3 The rent payable during the period of extension is £384,900 per annum from April 2023, as per the Lead Member's 24 January 2023 decision. This represents an increase of £20,000 per annum above the rent set out in the original lease. The rental of the premises is exclusive of business rates, utilities and cleaning, and the lease will place liability on the Council for repairs. This is the case with the current lease, so the proposed new lease places no additional operational liability on the Council.
- 2.4 The increased rent of £20,000 per annum (reflecting general market conditions) will be an additional cost to the Corporate offices budget but these pressures will be mitigated in year.

3 Conclusion and reasons for recommendations

- 3.1 Although the proposal, ultimately, is to move to a single office base in Eastbourne, the Council needs to ensure that the transition from two to one building is properly planned and managed. To ensure a seamless office move and maintain business continuity for key frontline services, it is anticipated that twelve to eighteen months will be required to complete the office move.
- 3.2 The recent fire at St. Mark's House adds additional pressure to the timeline for a planned relocation. It is therefore recommended that the Lead Member notes the progress with the negotiations for the new lease to date and delegates authority to the Chief Operating Officer to agree the final terms of the lease extension including the most appropriate time period for the lease.
- 3.3 It is recommended that the Lead Member delegates authority to the Chief Operating Officer to:
- (a) approve the final lease terms, including the most appropriate time period for the new lease;
 - (b) authorise the signing and completion of the lease by the Council;
 - (c) serve any necessary notices or counter notices, to surrender the original lease and approve any related documentation; and
 - (d) take any other actions considered appropriate to give effect to the recommendations in this report.

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