

Report to: Lead Member for Resources and Climate Change

Date of meeting: 15 October 2024

By: Chief Operating Officer

Title: Dilapidations Settlement – Unit D Ropemaker Park, Hailsham

Purpose: East Sussex County Council’s lease of Unit D Ropemaker Park expired in July 2023. A schedule of dilapidations was served on the Council by the Landlord. This report sets out the approach to negotiations and recommends the process for settlement of the claim.

RECOMMENDATIONS

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

- 1) Agree that the Council seeks to settle the claim by mutual agreement in the first instance, as set out in paragraph 2.2 of this report;
- 2) Delegate authority to the Chief Operating Officer to take all actions necessary to give effect to the recommendations in this report, including, but not limited to, approving the amount of any settlement.

1 Background

1.1 East Sussex County Council (the Council) previously occupied Unit D Ropemaker Park, Hailsham by way of a 15 year fully repairing and insuring commercial lease, commencing on 11 September 2007 and expiring on 10 September 2022. The 32,500 sq ft warehouse unit was used as an archive facility by the Council’s Library Information Service (LIS) and the Records Management Service (RMS). A plan of the site is attached as Appendix 1.

1.2 Following an internal review of service requirements in advance of lease expiry, and in line with the Council’s Asset Management Plan 2020-2025, LIS was relocated to the former Polegate library, which was re-purposed. RMS was relocated to alternative leased premises at Alder Close, Eastbourne. The Alder Close premises is smaller and more cost-effective than Unit D, Ropemaker Park. The Lead Member for Resources and Climate Change gave approval to enter into the new lease of the Alder Close premises on 19 May 2022 - [Alder Close - Letting - Lead Member Report](#).

1.3 In order to ensure continuity of the service, the Council entered into a new short lease agreement at Unit D Ropemaker, effective from 11 September 2022 and expiring 10 July 2023. This ensured that the service could continue uninterrupted, whilst works were undertaken at the Alder Close premises to make it suitable for occupation. The obligations and covenants contained in the 15-year lease were largely replicated in the short term lease expiring 10 July 2023, including the covenant for the Council to fully repair and maintain the property.

1.4 Prior to the Council vacating the property at Ropemaker Park, the Landlord served a Schedule of Dilapidations on the Council, setting out items that they considered to be in disrepair. The Schedule set out estimated costings to put the property into a satisfactory condition, as required by the lease. The principles of the measure of damages for disrepair is established at common law and is governed by Section 18 of the Landlord and Tenant Act 1927. In essence, the basic principle of dilapidations is to ensure that a landlord should not

suffer financial loss as a result of a tenant not adhering to repair covenants contained within the lease. The Schedule also included a quantified demand for settlement and the Council engaged a specialist dilapidations surveyor to consider the validity of the claim.

1.5 The Council advised the Landlord that it was not possible to undertake all of the works prior to vacation, due to the need to maintain continuity of the service. The Landlord made the Council aware that a new tenant had been identified for Ropemaker Park and that the Landlord would undertake works to put the property in repair to enable the new tenant to take occupation as quickly as possible following the expiry of the Council's lease. An updated claim was then sent to the Council by the Landlord on 5 April 2024. The Council's appointed surveyor re-inspected the property to assess the works undertaken by the Landlord and has since provided advice to the Council.

2 Supporting information

2.1 If the parties are unable to agree a mutual settlement, the Landlord may issue court proceedings. The landlord can legitimately claim for interest, at the rate prescribed by the lease, and legal and expert fees. In addition to this, the Council will incur its own additional legal and expert fees. Determination of the matter by the court or via an alternative process such as mediation, may be more costly to the Council than settling the claim mutually, and the outcome is uncertain.

2.2 To minimise costs, the Council intends to resolve this matter by negotiation. It is therefore recommended that the Lead Member approves that the Council seeks to settle the claim by mutual settlement in the first instance.

2.3 More detailed financial information is set out in an exempt report later on in the agenda.

3 Conclusion and reasons for recommendations

3.1 The Council has taken appropriate professional advice with regard to the Landlord's dilapidations claim in respect of Unit D, Ropemaker Park, Hailsham.

3.2 The Lead Member is recommended to approve that the Council seeks to mutually agree the settlement of the claim with the Landlord in the first instance.

3.3 Additionally, the Lead Member is recommended to delegate authority to the Chief Operating Officer to take all actions necessary to give effect to the recommendations in this report, including, but not limited to, approving the amount of any settlement.

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Chief Operating Officer

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LOCAL MEMBERS

Councillor Gerard Fox - Hailsham New Town

BACKGROUND DOCUMENTS

None