

SOUTH STAFFORDSHIRE COUNCIL**ASSET SCRUTINY PANEL – 19TH JANUARY 2023****INCREASED TERM FOR LONG LEASES – DELEGATED AUTHORITY****LEAD CABINET MEMBER – COUNCILLOR ROGER LEES, LEADER OF THE COUNCIL****PART A – SUMMARY REPORT****1. SUMMARY OF PROPOSALS**

The Council currently own buildings throughout the District which are leased on a commercial basis to businesses and other public organisations at market rents. The majority of these leases have been granted by the Council many of which are long standing but a significant number have either being inherited through local government reorganisation or by acquisition under the Council's Asset Strategy policy. A number of the existing leases are coming towards the end of their terms and this report details recommendations on approvals on how to proceed with lease renewals or any new leases.

2. RECOMMENDATIONS

- 2.1 That Members agree for the granting of renewals of the current leases and the granting of new leases for terms in excess of 5 years to be delegated under Part 3 (0) (2.6) of the Constitution to the Corporate Director Finance and Resources and the term be extended to 10 years.
- 2.2 If Members agree to the granting of a renewals or new leases that Members delegate authority to the Director of Legal and Governance to execute all documents necessary in this connection.

3. SUMMARY IMPACT ASSESSMENT

POLICY/COMMUNITY IMPACT	Do these proposals contribute to specific Council Plan objectives?	
	Yes	<ul style="list-style-type: none">Prosperous and Vibrant Communities and driving economic prosperity.
	Has an Equality Impact Assessment (EqIA) been completed?	
	No	Not required

SCRUTINY POWERS APPLICABLE	Yes	Asset Scrutiny Panel
KEY DECISION	No	
TARGET COMPLETION/ DELIVERY DATE	31 st January 2023	
FINANCIAL IMPACT	Yes	The main body of the report in section 4. outlines the financial impact of the proposals to the Council.
LEGAL ISSUES	Yes	s123 of the Local Government Act 1972 & S1 of the Localism Act 2011. In terms of decision making, this will be delegated to the Corporate Director Finance and Resources. Under s123 of the Local Government Act 1972 the Council has a statutory duty if we dispose of land to be at the best consideration – Legal advice will be provided to ensure that the requirements of s.123 are met.
OTHER IMPACTS, RISKS & OPPORTUNITIES	Yes	The report sets out the alternative options in section 5.
IMPACT ON SPECIFIC WARDS	Yes	All wards within the District.

PART B – ADDITIONAL INFORMATION

4. INFORMATION

- 4.1 The District Council granted and/or are successors in title to commercial leases with terms in excess of 5 years. These leases fall under the provisions of the Landlord and Tenant Act 1954 and more specifically Sections 24-28 which provide security of tenure for the tenants.
- 4.2 The tenants have a legal right to renew their existing leases on the same terms and conditions (except for the rent) and if required can apply to the courts who will grant a new lease unless the Council are able to prove one of the statutory grounds for possession. It is extremely unlikely that the Council will be able satisfy the conditions of any of the statutory grounds. The Council are therefore legally obliged to grant a new lease to the tenants in excess of 5 years due to the terms of the original leases. This is currently in breach of Part 3 (0) (2.6) of the Constitution approved by the Council which restricts the terms to 5 years.

Currently Part 3 (0) (2.6) of the Constitution approved by the Council authorises the Corporate Director Finance and Resources in consultation with CLT,

“To authorise the acquisition, reuse, appropriation and disposal of the Council's land and buildings, in consultation with the Corporate Leadership Team, together with the granting or taking assignment or surrender of leases (not exceeding 5 years), tenancies, licences, easements, wayleaves and variations of rent of the Council's land and buildings”

- 4.3 The granting of leases for terms up to 10 years is a fairly common practice within the commercial property market and the majority of tenants looking to occupy our larger units will be looking for terms of this length to provide them with security and to justify and protect investment that they will making. If the Council are restricting the length of the terms offered this will mean that prospective tenants will look elsewhere and if we are restricting the market for our property, less demand means lower rents. The consequence is likely to be increased voids and lower rents.
- 4.4 Longer terms for existing and new leases benefit the Council as they provide security of income going forward and allow more accurate financial forward planning.
- 4.5 The valuation of Council commercial assets is based on the capitalisation of rental income and therefore longer leases will increase the value of the Council's property assets.
- 4.6 The majority of these leases do not have large annual rents and are part of normal day to day good property management process. Where the rents are more significant officers will continue to seek Member approval.
- 4.7 The Council's asset investment programme runs contrary with the restrictions on the term of the lease and all three recent acquisitions have leases with terms in excess of 5 years and the proposed leases for the Wombourne redevelopment are also for longer periods.

5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

- 5.1 If Members opt to grant an increase of the term for lease renewals and new leases it will be consistent with the Council's Plan of working with local communities to provide vibrant communities and supporting local businesses.
- 5.2 Our existing tenants will be able to renew leases for the same term without the need for Member approval however officers will still provide reports where the rent is significant.
- 5.3 This approach will further improve the management and efficiency of the Council's property portfolio whilst providing assurance that senior officers will maintain strong oversight of the granting of our commercial leases.

6. PREVIOUS MINUTES

None

7. BACKGROUND PAPERS

None

8. Appendices

None

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