

Guildford Borough Council

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| Report to: | Executive |
| Date: | 28 November 2024 |
| Ward(s) affected: | Castle Ward |
| Report of Strategic Director of: | Finance and Resources (s.151) |
| Report Author: | Charles Wood, Asset & Property Manager |
| Email: | Charles.Wood@guildford.gov.uk |
| Lead Executive Member: | Richard Lucas |
| Email: | Richard.Lucas@guildford.gov.uk |
| Status: | Partially Exempt |
| Key decision: | Yes |

To grant a lease at the Rodboro Building, Bridge Street, GU1 4SB

1.0 Executive Summary

1.1 The lease to JD Wetherspoon at the Rodboro Building expired in January 2023. Following the receipt of an independent, external valuation report, officers negotiated terms for a renewed lease with the existing tenant. All new lease agreements with a rental income of £200,000 over the life of the contract constitute as a Key Decision and require Executive approval. Officers are therefore seeking Executive approval to proceed with the proposed transaction as set out within this report.

2.0 Recommendation to Executive

That the Executive resolves to:

2.1 Approve the grant of the lease as laid out within this report.

3.0 Reasons for Recommendations

3.1 The proposed lease terms represent best consideration.

- 3.2 The proposed annual rent secures an income stream for the Council for 25 years and avoids vacant property costs.
- 3.3 The grant of the proposed lease ensures continuity of occupation and demonstrates effective estate management of the portfolio.

4.0 Status of Report

- 4.1 The report is partially exempt and contains exempt appendices.
- 4.2 Part of the content of the report as indicated below and the appendices are to be treated as exempt for the purposes of the Council's Access to Information Procedure Rules because they contain commercially sensitive information and are therefore exempt by virtue of paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 as follows: information relating to the financial or business affairs of any particular person (including the authority holding that information).

5.0 Strategic Priorities

- 5.1 **A more prosperous borough** – *We'll ensure that Guildford borough is a place where business can thrive, and everyone gains from it.* The proposed leases enable the existing tenant to operate its business activities from the premises.
- 5.2 **A resilient and well-managed council** – *We're committed to public service. We exist to serve our residents, businesses, and visitors. We'll ensure the services we provide are relevant, innovative, and accessible.* The proposed lease demonstrates good estate management of its property portfolio and service to its tenants.

6.0 Background

- 6.1 The Rodboro Building is located in the centre of Guildford at the junction of Bridge Street and Onslow Street on the one-way gyratory system. The Council owns the freehold under title number SY426667, in addition to the adjacent assets Armour Buildings and the Electric Theatre.

- 6.2 The Rodboro Building is occupied by the Academy of Contemporary Music on the upper floors and JD Wetherspoon on the lower floors. There is an outside seating area to the rear which is demised to JD Wetherspoon under a separate lease.
- 6.3 [EXEMPT INFORMATION - paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972]
- 6.4 Prior to the expiry of the former lease, officers appointed independent external retail valuers to prepare a valuation report to inform negotiations for a lease renewal, see Appendix 1. [EXEMPT INFORMATION - paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972]
- 6.5 Following extensive negotiations with the tenant, both parties agreed to the proposed heads of terms set out in Appendix 2. A draft lease was then issued to the tenant based on the agreed terms and after 18 months in negotiations with solicitors, it is now in agreed form ready for completion, subject to Executive approval.
- 6.6 [EXEMPT INFORMATION - paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972]
- 6.7 Renewing the lease to the current tenant on the above terms was considered more favourable than placing the property on the open market to avoid the Council incurring marketing costs, vacant property costs, and a long rent-free period or capital contribution to a new ingoing tenant. The heads of terms set out in Appendix 2 represent best consideration.
- 6.8 The tenant is currently occupying the premises under a temporary legal agreement known as a Tenancy at Will. Rent is not collected under such an agreement, but a Use and Occupation Fee will be payable upon termination which is the equivalent amount to the rent previously payable, calculated on a daily basis.

7.0 Options

- 7.1 To enter into the proposed leases in accordance with the heads of terms set out in Appendix 2, thereby providing the Council with a secure income stream over the proposed term of the leases.

- 7.2 To terminate the tenancies at will and take any necessary action to have the tenant vacate and not enter into the proposed leases, thereby leaving the property empty for an indefinite period and costing the Council void property costs including business rates, standing utility charges, and repair and maintenance.

8.0 Consultation

- 8.1 The Lead Councillor for Assets and Property, Councillor Richard Lucas was consulted and supports the officer recommendation laid out in this report.
- 8.2 Ward Councillors were informed of this decision and no comments were raised.

9.0 Key Risks

- 9.1 By failing to respond positively to the offer submitted, there is a risk that the proposed tenant may withdraw their interest. There is a risk any new offers may be less than which is currently received, and the Council may therefore fail to maximise the rental income achievable.
- 9.2 By failing to act on the offer currently received, there is a risk the property may be subject to a prolonged unsuccessful marketing campaign, falling into disrepair, incurring void costs, and depreciating in value. A long-term void in a prominent town centre location is likely to reflect poorly on the Council as Landlord.
- 9.3 There is a risk the Council may face reputational damage by failing to respond to the market – which presently represents best consideration – and failing to meet its strategic priorities.

10.0 Legal and Governance Implications

- 10.1 The Council is bound by Section 123 of the Local Government Act 1972 which states that a council must not dispose of land for a consideration less than the best that can reasonably be obtained. As

set out in the report Assets have considered that the rent achieves best consideration.

- 10.2 A tenant should not be in occupation without a formal tenancy, this could result in an occupier accruing rights of security of tenure. Tenancies at Will have been used to reduce the risk as they regularise the occupation in the interim while a formal lease is being agreed. Tenancies at Will, however, should only be used for a short term and only whilst a lease is being genuinely negotiated. It is advisable to either complete a formal lease as soon as possible or regain possession of the property.

11.0 Financial Implications

- 11.1 The proposed lease of the Rodboro Building secures a significant income stream for the Council, contributing positively to its financial health and budgetary goals. The agreed initial rent and fixed increase in years three to five, offers predictable revenue growth and mitigates risks associated with market fluctuations.
- 11.2 The rent review mechanism, set at every five years with a fixed upward adjustment of 7.5%, ensures rental income will continue to reflect market trends over the lease term, providing additional financial security. Furthermore, by avoiding vacancy costs, such as maintenance and business rates on empty premises, this lease reduces potential financial liabilities for the Council.

12.0 Human Resources Implications

- 12.1 None.

13.0 Equality and Diversity Implications

- 13.1 None.

14.0 Climate Change and Sustainability Implications

- 14.1 None.

15.0 Next Steps

- 15.1 Asset and Property officers to inform the prospective tenant that the Council wishes to proceed with the proposed transaction.
- 15.2 Legal officers to progress and complete the legal documentation.
- 15.3 Finance officers to budget for and arrange collection of the rental income.

16.0 Background Papers

- 16.1 None.

17.0 Appendices

- 17.1 Appendix 1 – Valuation report dated 5 August 2022 (Exempt).
- 17.2 Appendix 2 – Proposed heads of terms (Exempt).
- 17.3 Paragraphs 6.3, 6.4, 6.6 (Exempt)

Report clearance progress:

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|--------------------|----------------------------------|------------|
| Finance | Solomon Akuffo | 29/10/2024 |
| Legal & Governance | Claire Beesly/Geena-mae Bucknall | 28/10/2024 |
| Human Resources | Francesca Chapman | n/a |
| Equalities | Francesca Chapman | n/a |
| Strategic Director | Richard Bates | 29/10/2024 |