

Decision maker:	Cabinet member contracts and assets
Decision date:	Friday 8 December 2017
Title of report:	Lease of premises at Harold Street and Franklin Barnes, Hereford
Report by:	Strategic property services manager

Classification

Open

Decision type

Key

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards affected

Central; Widemarsh;

Purpose and summary

Herefordshire Council owns the freehold of the former Record Store, Harold Street and the Franklin Barnes Building, Blueschool Street, Hereford. Both properties are presently vacant and there is no current requirement for their use by the council

Further to negotiations with Wye Valley NHS Trust (WVT) terms have been provisionally agreed for a lease of five years in respect of the store and ground floor offices at the former Record Store, at a rent of £40,000 per annum, and a lease of two years in respect of the vacant Franklin Barnes building at a rent of £79,000 per annum.

This report seeks approval to lease both premises to the WVT on the provisionally agreed terms.

The proposed leases will provide an income stream for the Council and address the cost liability of holding the properties which are presently vacant.

Recommendation(s)

That:

- (a) the council enters into a lease with the Wye Valley NHS Trust in respect of the store and ground floor offices of the former record store, Harold Street, Hereford for a period of five years (commencing as early in 2018 as is practicable) at an annual rent of £40,000 and thereby reduce the current annual holding cost of £43,944;**
- (b) the council enters into a lease with the Wye Valley NHS Trust of the vacant offices at the Franklin Barnes building, Hereford for a term of two years (commencing as early in 2018 as is practicable) at an annual rent of £79,000 and thereby reduce the current annual holding cost of £151,964;**
- (c) approval be given to any rental payment falling due between commencement of the leases and 1 April 2018 being scheduled for payment across the remainder of the lease term; and**
- (d) the council makes £40,000 of capital funding available to the Wye Valley NHS Trust to support refurbishment of both premises to be recovered as additional rent from the Wye Valley NHS Trust.**

Alternative options

1. The alternative options are to either retain both premises for council use, or dispose of the freeholds.
2. There is no current requirement for either premises by the council and the annual cost liability of holding the former record store and the offices at The Franklin Barnes building based upon the most recent information is £43,944 and £151,964 respectively.
3. There is no requirement for either property by the council for its own use. The option to sell the freeholds has been considered and in each case the proposed lease periods enable an interim position to be established whilst the longer term strategic potential of both properties can be investigated and considered.

Key considerations

4. The key proposal is that leases are granted to the WVT in respect of both vacant properties for varying terms at market rents.
 - The former record store is surplus to requirement and a decision taken in 2015 to sell the property was not implemented as the prospective purchaser did not secure the necessary planning permission. The adjoining land is owned by the council and is let on a long term lease. The opportunity to lease the majority of the former record store for five years mitigates the cost of holding a vacant property, and generates an income stream which enables time for the strategic options regarding land assembly in respect of the adjoining land to be investigated and advanced.

- The offices at the Franklin Barnes building have been vacated in order to rationalise occupation of council premises and have been identified for potential use by the new university, however the university is in the process of establishing itself and has confirmed it does not require the premises at least in the short term. The opportunity to lease the premises for two years mitigates the cost of holding a vacant property and generates an income stream. In the meantime the University has a period in which to consider the option of utilising the property once it is established and the strategic potential of the building is retained.
5. WVT are seeking to undertake a series of moves within the Hereford Hospital campus to enable development work to be undertaken. One key element of this is the demolition of the 'Canadian storage huts' to enable the construction of a 48 bed facility which will include provision for intensive treatment unit accommodation. They therefore have a requirement for file storage and ancillary offices and through established lines of communication we have negotiated terms for a lease of the storage area and ground floor offices of the council's former store at Harold Street, Hereford.
 6. The proposed lease is for a term of five years outside the security of tenure provisions of the 1954 Landlord and Tenant Act. The agreed rent is £40,000 p.a. which reflects the current market. The lease will be on an internal repairing and insuring basis with a pro-rata contribution to external repairs and maintenance.
 7. As part of the moves at the hospital campus, WVT also need to relocate their finance department for a period of two years and further to negotiation provisional agreement has been reached on terms for a lease of the vacant parts of the Franklin Barnes building.
 8. The proposed lease will be for a period of two years outside the security of tenure provisions of the 1954 Landlord and Tenant Act. The agreed rent is £79,000 p.a. which reflects the current market. The lease will be on an internal repairing and insuring basis with a pro-rata contribution to external repairs and maintenance.
 9. WVT would like to take occupation of both premises at the start of 2018. They are facing significant budgetary pressure this year and have requested that the rental payment in respect of both premises commence from the 1 April 2018. It has been provisionally agreed that the rent due from the commencement of the leases up to this date will be rolled over the term of each lease as additional rent.
 10. In addition WVT have requested an initial landlord contribution of £40,000 towards fit out costs and it has been provisionally agreed that this can be provided subject to a record of expenditure being provided to evidence the fit out cost in relation to each building. This sum will be recovered as additional rent over the term of the respective leases and will be subject to interest.
 11. There are presently a few staff remaining within the Franklin Barnes building who will be relocated to the underutilised space at the Town Hall and other council premises at minimal cost as a consequence of the proposed lease to WVT.
 12. The proposed letting of both premises demonstrates strategic co-operation between public sectors organisation in achieving benefits to the public with regard to the efficient use of the public sector estate and ultimately the provision of additional beds and ITU facilities at the County Hospital.

Community impact

13. The proposal enables the delivery of 48 additional beds and ITU facilities at the hospital thereby improving the provision of healthcare within the county.
14. The proposal helps meet the council's corporate plan priorities in terms of making optimum use of its resources and obtaining best value for them when not being utilised under the corporate estate strategy. As the occupier WVT be responsible for the cost of overheads, maintaining the area leased to them and will have responsibility for compliance with Health and Safety legislation.

Equality duty

15. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
16. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.

Resource implications

17. The financial contribution to tenant fit out costs can be drawn from available funds and will be recovered as additional rent subject to interest at half a percent above base bank rate
18. The council faces the cost of holding both vacant premises until they are either disposed of or put to alternative use. In both cases there is no identified alternative use within the immediate future.
19. The current costs of holding the void premises amount to £151,964 p.a. in respect of the Franklin Barnes building and £43,944 p.a. in respect of the former record store, Harold Street, Hereford .
20. The proposed leases will mitigate these costs and provide an income stream of at least £119,000 p.a. for two years reducing to £40,000 p.a. for the remaining period to 2023.

Legal implications

21. Section 123 of the Local Government Act 1972 endows the Council with wide powers for the disposal of its property assets, whether freehold or leasehold however the overriding requirement is to obtain the best consideration that can be achieved in the market. The Council can demonstrate that best value is being obtained having assessed the rental figures for each property as being the current market rents. The leases, being excluded from the security of tenure provisions of the Landlord and Tenant Act 1954, will allow for both receipt of income and retention of flexibility.
22. With regard to the advancement of fit-out costs, the Council is empowered, by Section 111 of the Local Government Act 1972, to 'do anything (whether or not involving expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate or is conducive or incidental to the discharge of any of (its) functions'. Furthermore, Section 1 of the Localism Act 2011 introduced a general power of competence, which conferred on local authorities, the ability to do anything they consider likely to achieve, amongst other things, the improvement of economic well-being in the area. The powers however are not unfettered and the Council must act commercially and reasonably, and can be seen to be so doing by reserving the costs as additional rent with interest payable.

Risk management

23. The proposed leases address the risk to the council, both financial and physical, of holding vacant premises.
24. The financial risk has already been stated but there are also the physical risks associated with vacant premises such as vandalism and deterioration.
25. There is also the potential reputational risk as Franklin Barnes is a prominent building in Hereford and being visibly vacant and underutilised could reflect on the management of the estate portfolio.
26. Should the leases be approved the risks associated with each premises will be managed at a service level and entered on the service risk register.

Consultees

27. Internal consultation has been undertaken within property services, economic development and finance. Political groups were consulted and no comments or objections were received. The council has spoken to agents in the local commercial property market and the general indication is that there is unlikely to be immediate demand for either premises on the open market.

Appendices

None

Background papers

None identified.