

Agenda Item No: 9.5 **Report No:** 152/15
Report Title: Newhaven Enterprise Centre
Report To: Cabinet **Date:** 23 November 2015
Cabinet Member: Cllr Andy Smith, Leader of the Council
Ward(s) Affected: Newhaven Valley Ward
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Purpose of Report:

To consider a proposed 2-year contract amendment to the existing Operational Management Agreement between LDC and Basepoint Centres Ltd.

Officers Recommendation(s):

- 1 To note the strong performance of Newhaven Enterprise Centre and the work being undertaken to expand the facility.
- 2 That Cabinet approves the waiver of the Contract Procedure Rules for the reasons set out in this report to allow the direct award of the contract proposed to Basepoint without a competitive tender process.

Reasons for Recommendations

- 1 The existing Operational Management Agreement expires in November 2017 and it is considered financially advantageous for LDC to re-tender the Agreement once the new extension is fully occupied.
- 2 The existing arrangement between Basepoint and LDC has been highly successful and an excellent working relationship has been fostered between Centre management and LDC's Regeneration & Investment team.

Information

3 Local Challenges and Opportunities

- 3.1** Newhaven faces a number of challenges and opportunities. These include pockets of high unemployment, low skills and poverty of aspiration; a weak economic base associated with the decline in traditional port and related manufacturing industries; and poor quality commercial property that is unsuitable for modern business needs within emerging higher value sectors.
- 3.2** Newhaven has a real opportunity for growth, with money being committed through the Greater Brighton City Deal and Local Growth Funding to improve flood defences in the town and build a new port access road, as well as the identified opportunity to establish Newhaven as a 'Clean Tech' Growth Hub linked to the development of the University Technical College, E.ON's Rampion Offshore Wind Farm, Newhaven Growth Quarter and the bid to obtain Enterprise Zone status for specific development sites.

4 Newhaven Enterprise Centre

- 4.1** Newhaven Enterprise Centre is located on Denton Island and was opened in November 2007. The Centre was built using £4.75 million of funding secured from the now defunct South East England Development Agency (SEEDA).
- 4.2** The Centre provides approximately 2,000m² of high quality managed business space across 45 furnished incubator units, for business start-ups and larger units aimed at micro-businesses¹. The units are let on flexible "easy in, easy out" terms that are ideal for new businesses.
- 4.3** Newhaven Enterprise Centre is managed by Basepoint Centres Ltd on behalf of LDC under a 10-year Operational Management Agreement (OMA) which is due to expire in November 2017. Under the terms of this agreement, the Council pays Basepoint a fixed annual management fee, along with performance-based fees linked to the net income generated at the Enterprise Centre.
- 4.4** As part of the Newhaven Growth Quarter project (funded primarily through a successful bid to the Coastal Communities Fund), LDC is currently extending the Enterprise Centre to create an additional 769m² of managed business space. This extension is focused on fostering growth in the emerging clean, green and marine technologies sector linked to other local developments including the new UTC@harbourside and the Rampion Offshore Wind Farm.
- 4.5** Occupancy levels at the Centre have remained consistently high in recent years. The annual occupancy² average for 2013/14 was 96.33%,

¹ Those employing up to 10 people

² In terms of occupied square feet of available business workspace

which rose to 97.57% during 2014/15. The YTD³ occupancy for 2015/16 is currently⁴ 97.74%, despite the disruption created by the new extension as part of the Newhaven Growth Quarter scheme.

- 4.6** As of the end of August 2015, the Centre had a waiting list of 33 potential new tenants to take space. This further emphasises the success of the Enterprise Centre under Basepoint’s management thus far.
- 4.7** The business plan for the extension to the Enterprise Centre envisages a gradual build-up in unit occupancy levels, from 10% in Q1, Year 1, rising to a target annual occupancy of 90% by Q1, Year 3. Given the nature of the OMA, whereby LDC and the operator share the risk, it is considered that LDC will be in a stronger negotiating position once the next extension is better occupied. It would therefore be financially advantageous to defer the letting of a new long-term management agreement until the higher level of occupancy has been achieved. For these reasons, it is recommended that we authorise a new OMA for Basepoint to cover the 2-year period from November 2017 to November 2019.

5 Basepoint Centres Ltd

- 5.1** Basepoint Centres Ltd opened their first business centre in 1994 in Romsey in Hampshire. They now operate 31 innovation and enterprise business centres in the UK, covering more than 700,000ft² of business space across Southern England, the Midlands, East Anglia and Wales.
- 5.2** Basepoint is wholly owned by The ACT Foundation – a charitable trust with a mission to “enhance the quality of life for people in need”. Any profits made by Basepoint are re-invested by the trust to further its community-based charitable objectives.
- 5.3** As a result, all Centres owned or managed by Basepoint provide financial support to a local charity as part of their own objective to help develop sustainable communities. Management in Newhaven are working with FitzRoy – national charity working to transform the lives of people with learning disabilities, helping them to live more independently at home and in their communities.

6 Financial Appraisal

- 6.1** In the last three years, Newhaven Enterprise Centre has generated net income in excess of £350,000, supporting the Council’s overall General Fund budget. Details are as follows:

Net income generated	£
2012/13	97,500
2013/14	122,900
2014/15	130,300
Total	350,700

³ Year to Date (ie. since 1st April 2015)

⁴ YTD occupancy as at end September 2015

- 6.2** The growth in net income shown above reflects the increased occupancy rate of the units available at the Enterprise Centre along with improvements in revenue generated from the use of telecoms and the hire of meeting rooms.
- 6.3** Reflecting this increasing performance, the annual fee paid to Basepoint for the operational management of the Enterprise Centre has also increased as indicated below:

Fees paid	£
2012/13	48,200
2013/14	54,500
2014/15	57,600
Total	160,300

- 6.4** In 2015/2016, the last year of the current OMA, the total fee paid to Basepoint is expected to reduce to £39,700. This is because income from rents and hire charges will drop while the work to build the Enterprise Centre extension takes place, and no performance fee will be payable under the terms of the OMA.
- 6.5** If the existing OMA is extended for a further two years, the total fees paid to Basepoint are projected to increase as occupancy rates return to their former level, the units in the new extension become available for letting and the client base for room hire and telecoms fees expands. Projections are:

Fees payable	£
2016/17	54,500
2017/18	62,100

- 6.6** Compared with 2014/15, the fee payable to Basepoint in 2017/18 will increase by £4,500. This increase will be more than offset by the additional income generated for the Council by the extension, which is projected to be £22,000 in that year.

7 Legal Implications

Public Procurement Regulations

- 7.1** The proposal to enter a new contract when the contract comes to an end in November 2017 in order to continue the existing arrangements with Basepoint for a further two years is compliant with the public procurement regime which the Council must comply with. It is considered that the proposed new contract is a services concession contract but even if this analysis was not correct, the contract will be a public services contract where the Council will still not need to follow a regulated public procurement process to award the contract as its value will be below the relevant threshold of £172,514.
- 7.2** The Public Contract Regulations 2006 continue to apply to services concessions contracts but these specifically exclude such contracts (of

whatever value) from a requirement to follow a full public procurement process. There is only a need to run some form of open competition advertised Europe-wide if the services concession contract is of a kind that will be of interest to undertakings in other Member States. If not, then it is up to the Council to determine what sort of competition it undertakes or whether it runs a competition at all. We do not consider that the nature or value of the proposed contract will be of sufficient cross-border interest to require a Europe-wide competition to be held. New concessions contracts will become regulated from 16 April 2018. The threshold for the application of the rules requiring a competition will not be triggered unless the value of the contract exceeds €5,186,000.

Contract Procedure Rules

- 7.3** The Council's Contract Procedure Rules require a contract for services with a value of over £30,000 but below EU Thresholds to be awarded after at least four organisations have been invited to tender for the opportunity.
- 7.4** Provided the waiver will not breach public procurement regulations, the Contract Procedure Rules allow Cabinet to waive any requirement within the Contract Procedure Rules for any specific project, in which case its reasons for doing so shall be recorded in the Minutes of the Cabinet. As a general principle, Cabinet should only agree to waive these requirements if there are good and objectively demonstrable grounds for doing so.
- 7.5** In deciding to waive any requirement, Cabinet should have regard to its general fiduciary duty to its wider taxpayers and the duty to achieve best value from its procurement arrangements. The reasons for waiving the requirement for a tender process and continuing the arrangements with Basepoint through the award of a new 2-year contract are set out elsewhere in this report, and Cabinet are asked to agree to waive the Contract Procedure Rules on this occasion and allow the award of the contract proposed without a tender process.

8 Risk Management Implications

- 8.1** A detailed Risk Register was prepared at the time of construction of the Newhaven Enterprise Centre. This was debated by the Newhaven Enterprise Gateway Sub-Committee in July 2006 (Report No. 133/06).
- 8.2** In addition, the following risks will arise if the recommendations are not implemented, and I propose to mitigate these risks in the following ways:

Risk	Likelihood	Impact	Mitigation
The Centre operates below full capacity, thereby reducing revenues for LDC	Medium	High	Any alternative specialist operator would be likely to have coherent marketing plans, although an initial detrimental effect on short-term revenues is highly likely.

8.3 The following risks will arise if the recommendations are implemented, and I propose to mitigate these risks in the following ways:

Risk	Likelihood	Impact	Mitigation
Basepoint don't manage the Centre effectively	Low	High	The Centre has been highly successful since opening and has been under Basepoint's management throughout.
By extending the existing OMA, the Council does not achieve best value	Low	High	The Centre is currently full, with a significant waiting list for the new extension. Basepoint are one of the leading operators of managed business space in the UK and have a strong track record of success. LDC is likely to be in a stronger position to re-tender for the management of the Centre in 2019, once the new extension has been established and is fully occupied (allowing for build-up of tenants and revenues).

9 Equality Screening

9.1 Between 28 September 2015 and 2 October 2015, an Equality Analysis was undertaken on this proposal. Due regard was given to the general equalities duties and to the likely impact of the decision on people with protected characteristics, as set out in the Equality Act 2010.

9.2 The assessment identified that no major changes are required. The EA demonstrates the decision is robust, there is little potential for discrimination or adverse outcomes, and opportunities to promote equality have been taken.

9.3 A copy of the EA is attached as an Appendix to this report.

Background Papers

10 None.

Appendices

11 Appendix 1: Equality Analysis report, together with copies of Basepoint's Equality and Diversity policies.