

Agenda Item No: **Report No:**

Report Title: **Property Report**

Report To: **Cabinet** **Date:** **29th September 2014**

Cabinet Member: **Councillor Andy Smith**

Ward(s) Affected: **Lewes Bridge (Lewes), Denton & Meeching (Newhaven)**

Report By: **Alan Osborne, Director of Corporate Services**

Contact Officer(s)-

Name(s): **Bee Lewis**
Post Title(s): **Contract and Facilities Manager**
E-mail(s): Bee.lewis@lewes.gov.uk
Tel No(s): **01273 611101**

Purpose of Report:

To set out the terms of proposed lease events between Lewes District Council and proposed or existing tenants at:

2, Malling Close, Lewes (lease renewal)
Newhaven Tennis Club, Newhaven (lease renewal)
Thebes Annexe, Lewes (proposed lease)

Officers Recommendation(s):

- 1** To delegate authority to the Director, Corporate Services to grant leases in respect of the properties outlined above based on the attached heads of terms together with any terms required by the Director of Finance and the Assistant Director, Corporate Services.
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Reasons for Recommendations

- 2** This report deals with two outstanding lease renewals and a new short-term lease at Thebes Annexe requiring approval by Cabinet under the scheme of delegation.

Information

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2, Malling Close

- 3.1** The lease at 2, Malling Close expired in November 2013. The tenant is protected under the Landlord and Tenants Act (1954) and has a right to a new lease under the existing terms.
- 3.2** As the tenant is protected under the Act, it is not possible to insert a break clause into the new lease.
- 3.3** An independent valuation has been completed by Fludes and the valuation represents an open market valuation in line with Council policy.
- 3.4** The Heads of Terms are attached at Appendix A1 and the plan at Appendix A2.

Tennis Court, Court Farm Rd

- 3.5** The lease of the tennis court at Court Farm Road expired in April 2014. The tenant is protected under the Landlord and Tenants Act (1954) and has a right to a new lease under the existing terms.
- 3.6** As the tenant is protected under the Act, it is not possible to insert a break clause into the new lease.
- 3.7** As the land concerned is amenity land with a low value, an external valuer was not instructed. However, a desk-top evaluation of the land was carried out by East Sussex County Council and the valuation represents best consideration in line with Council policy.
- 3.8** The Heads of Terms are attached at Appendix B1 and the plan at Appendix B2.

Thebes Annexe

- 3.9** It is proposed to lease Thebes Annexe on a short-term excluded lease with no right of renewal for a period of up to two years.
- 3.10** As it will be a wholly new lease, the Council can set the terms of the lease without regard to any previous leases that may have existed there. The lease will feature a break clause operable after July 2016 with 2 months' notice on either side. The intention is to ensure that any leases issued at Lewes House, School Hill House or Thebes Annexe run co-terminus.
- 3.11** Oakleys, an independent valuer, have given a view on the likely revenue the Council could receive from letting out Thebes Annexe and the Heads of Terms at Appendix C1 reflect best consideration and exactly match Oakleys projection.

Financial Appraisal

- 4** If the leases are granted as set out in the attached heads of terms, the financial implications will be as follows:
- (a) 2 Malling Close – additional rent income of £1,000 pa will be generated compared with the current budget. This additional income will benefit the Housing Revenue Account, which holds this property
 - (b) Newhaven Tennis Club – the proposed rent is consistent with the current budget
 - (c) Thebes Annexe – the current budgeted cost of operating Thebes Annexe is £25,800 pa (excluding management costs). Under the terms of the lease, these costs will pass to the tenant, which will also pay an annual rent to the Council of £18,000. The net annual gain to the Council will, therefore, be £43,800. This will be used to reduce the level of support towards the cost of office rationalisation currently provided to the General Fund revenue budget from the Change Management and Spending Power Reserve, £75,400.

Legal Implications

The Legal Services Department has made the following comments:

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- 5.1** In respect of the leases relating to the tennis court at Court Farm Rd, Newhaven and the retail premises at 2, Malling Close, Lewes, The tenant is a protected business tenant under the Landlord & Tenant Act 1954 and is entitled to seek a renewal of the lease. The Council can serve notice under section 25 of the Act which puts in motion the mechanism for opposing or granting a new lease. The Act provides for the automatic continuation of the lease until the tenant's occupation is dealt with in accordance with the Act.
- 5.2** The grounds for recovering possession are set out in the Act. In the case there are no statutory grounds for the Council to oppose the grant of a new lease. However the Council is entitled to argue the terms of the lease but in the event of a dispute the terms will be settled by the court.
- 5.3** The proposals set out in this report take account of the tenant's status as protected business tenant under the Landlord & Tenant Act 1954.
- 5.4** With the exception of a tenancy not exceeding seven years, the Council may not dispose of land for a consideration less than the best that can be reasonably obtained in the market, except with the consent of the Secretary of State. A "disposal" of land includes a lease.
- 5.5** The government recognises that there may be circumstances where a local authority considers it is appropriate to dispose of land at an undervalue. The Secretary of State has power to give a general consent for the purpose of land disposals by local authorities. The General

Disposal Consent (England) 2003 provides that specific consent is not required for the disposal of any interest in land that the authority considers will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area. Disposals at less than best consideration are subject to the condition that the undervalue does not exceed £2,000,000.

- 5.6** In respect of the lease relating to Thebes Annexe, the proposed rent is within the range advised by Oakleys. The rent therefore reflects the full commercial value of the proposed lease.

Sustainability Implications

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I have completed the Sustainability Implications Questionnaire and there are no significant effects as a result of these recommendations.

Risk Management Implications

- 7** There are no risk management implications arising from this report.

Equality Screening

- 8** The recommendation has only positive or zero impact on equalities within the community.

Background Papers

- 9** None

Appendices - EXEMPT

- 10** Appendix A1: .Heads of Terms for 2, Mallig Close
Appendix A2: Plan of 2, Mallig Close
Appendix B1: Heads of Terms for Tennis Court, Court Farm Rd, Newhaven
Appendix B2: Plan of Newhaven Tennis Court, Court Farm Rd, Newhaven
Appendix C1: Heads of Terms for Thebes Annexe
Appendix C2: Plan of Thebes Annexe