

CABINET

4 MAY 2021

GILLINGHAM BUSINESS PARK

Portfolio Holder: Councillor Adrian Gulvin, Portfolio Holder for Resources
Report from: Richard Hicks, Director of Place and Deputy Chief Executive
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Summary

This report seeks delegated authority for officers in consultation with the Portfolio Holder for Resources to complete the variation or surrender/re-grant of the existing Head leases of Gillingham Business Park, to generate a capital receipt and/or increased revenue.

1. Budget and policy framework

- 1.1. This will be a matter for Cabinet, as if it is agreed that a premium is payable to the Council, then this is likely to be over £100,000 and if it is agreed that there is a variation to the rents payable, this will be more than £20,000pa per lease.
- 1.2. As any premium payable to the Council is likely to be over £500,000, this matter will need to be reported to Full Council when it is completed.

2. Background

- 2.1. The Council owns the freehold of the above business park as shown edged black and hatched black on the attached plan. It has an area of 120 acres (49 hectares.)
- 2.2. The Council's freehold interest is subject to two Head Leases. One was granted in 1978 and expires in 2103 (area edged black on the attached plan at Appendix 1) and the other was granted in 1980 and expires in 2130 (area hatched black on the attached plan.) Numerous sub-leases have been granted out of these Head Leases. Many phases have been 'sold' on long-leases and these either covered the original capital costs of setting up the business park or Gillingham Borough Council obtained a share of the premium paid for these in lieu of an annual rent.

- 2.3. The Council receives ground rent equating to a share of the net rental income received from the business park less non recoverable costs. The Council's share is 10% in respect of the lease that ends in 2103 and 8.5% in respect of the other lease.
- 2.4. The Council tends to receive about £230,000 pa from the business park.
- 2.5. The Head tenants would like to extend its Head Leases.

3. Options

- 3.1. Option 1 - The Council could refuse to vary the Head Leases and refuse to agree to surrenders/renewals of the existing Head Leases. If it does, then it will not receive a capital receipt, or any additional rent from the Business Park.
- 3.2. Option 2 - The Council could agree to vary the Head Leases or agree to surrenders/renewals of the existing Head Leases, in which case, the Council will receive a premium and/or extra rent for the variation and there are likely to be positive regeneration benefits for the area.
- 3.3. Option 2 is recommended.

4. Advice and analysis

- 4.1. Option 2 is recommended, as this will release a capital receipt and/or additional revenue income for the Council. It will also mean that the Head Tenant and its sub tenants will have security of tenure for longer, which means that they are more likely to invest in the business park, including investment that makes the business park more sustainable.
- 4.2. A Diversity Impact Assessment (DIA) is not needed as this report is not recommending any policy/service changes.

5. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Reduction in future investment in the Business Park.	The Head Tenants and occupiers have short leases, so are unwilling to invest in the business park	Ensure that a satisfactory agreement is reached with the Head Tenants to extend their leases.	C2

6. Consultation

- 6.1. Consultation has taken place with the Deputy Leader, Portfolio Holder for Resources, Chief Finance Officer and with the Regeneration Culture Environment and Transformation Directorate and no objections have been received

7. Climate change implications

- 7.1. Part of this site is let until 2103 and the rest until 2130 so there are no negative climate change implications, as a result of this proposal and if anything, the grant of longer leases could have a positive impact on climate change, as the Head Tenants and sub tenants are more likely to invest in the business park with the benefit of longer leases.

8. Financial implications

- 8.1. The Council currently receives around £230,000 per annum from the Head Leases and will receive far more than this at the end of the Head Leases. However, at this point, it would need to manage all the occupiers and pay for costs in respect of empty properties.
- 8.2. The Head Tenant wishes to extend its leases and it is likely that the Council can generate a significant capital receipt and/or rent increase if it agrees to this.

9. Legal implications

- 9.1. Any premium that is payable to the Council, for the extension of the leases, is likely to be over £100,000 and if it is agreed that there is a variation to the rents payable, this will be more than £20,000pa per lease, therefore under the council's constitution this is a matter for Cabinet.
- 9.2. As any premium payable to the Council is likely to be over £500,000, this matter will need to be reported to Full Council when it is completed.
- 9.3. The Council is under a duty to comply with section 123 of the Local Government Act 1972 and to obtain the Best Consideration reasonably obtainable, when it disposes of interests in property, unless consent is obtained from the Secretary of State or one of the general consents applies.

10. Recommendation

- 10.1 The Cabinet is asked to agree to delegate authority to the Director of Place and Deputy Chief Executive in consultation with the Portfolio Holder for Resources to vary or enter into a surrender/re-grant of the existing leases at Gillingham Business Park with the variation or grant of a new lease or leases being on the best terms reasonably obtainable.

11. Suggested reasons for decision

- 11.1. To facilitate the continued development of Gillingham Business Park by the head lessees and realise a capital receipt and/or additional revenue income.

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Appendices

Appendix 1 - Plan of Gillingham Business Park.

Background papers

None.