

## REPORT TO CABINET

<b>Exempt</b>		Would any decisions proposed :			
<b>Any especially affected Wards</b>	Discretionary	Be entirely within Cabinet's powers to decide			YES
		Need to be recommendations to Council			NO
		Is it a Key Decision			NO
Lead Member: Cllr Graham Middleton E-mail: <a href="mailto:cllr.graham.middleton@west-norfolk.gov.uk">cllr.graham.middleton@west-norfolk.gov.uk</a>		Other Cabinet Members consulted:			
		Other Members consulted:			
Lead Officer: Matthew Henry E-mail: <a href="mailto:matthew.henry@west-norfolk.gov.uk">matthew.henry@west-norfolk.gov.uk</a> Direct Dial: 01553 616272		Other Officers consulted: Lorraine Gore, Debbie Gates, Geoff Hall			
Financial Implications YES	Policy/ Personnel Implications NO	Statutory Implications NO	Equal Impact Assessment NO If YES: Pre-screening/ Full Assessment	Risk Management Implications YES	Environmental Considerations NO
If not for publication, the paragraph(s) of Schedule 12A of the 1972 Local Government Act considered to justify that is (are) paragraph(s)					

Date of meeting:

### **ASSET MANAGEMENT – COMMERCIAL PROPERTY PORTFOLIO VARIATION TO SCHEME OF DELEGATION**

#### **Summary**

The Borough Council manages a mixed portfolio of commercial premises that generates an income for the Council and provides business accommodation for small and medium sized businesses.

The current Scheme of Delegation is relatively prescriptive and it is considered that, in the current economic climate due to the coronavirus pandemic, the Assistant Director – Property and Projects needs a greater degree of flexibility in managing the commercial portfolio.

#### **Recommendation**

- 1) That authority is given to the Assistant Director – Property and Projects to revise the lease arrangements, as outlined for the specific case detailed within this report.
- 2) To delegate authority to the Assistant Director – Property and Projects, in consultation with the Portfolio Holder for Business Development, and the Council's Assistant Director – Resources, the ability to review individual lease arrangements for the commercial portfolio, on a case by case basis, as they arise in line with the parameters set out in the report.

#### **Reason for Decision**

To ensure adequate flexibility to protect the Council's financial interests and work with local businesses during the current challenging economic climate.

## **1      Background**

- 1.1 The Borough Council owns and manages a mixed portfolio of light industrial, retail, and other commercial premises. The parameters for managing this portfolio are set out within the current Scheme of Delegation.
- 1.2 The Scheme of Delegation is quite prescriptive, and during recent times of relative economic growth this has not caused any particular problems in managing this portfolio.
- 1.3 The recent impact of the coronavirus pandemic however is presenting certain issues that, in order for it to be managed as effectively as possible, there will need to be a greater degree of flexibility than is currently provided for within the existing Scheme of Delegation.
- 1.4 The current Scheme of Delegation provides authority to the Executive Director and Portfolio holder, and in turn the Assistant Director – Property and Projects to authorise property transactions at “market rent/value”, subject to upper limits (Officer Delegation 3.3.1.)
- 1.5 Once the terms for a commercial letting are agreed, approved and legally documented, officers have limited authority to revise the terms without reference to the portfolio holder, or Cabinet.
- 1.6 With the current economic uncertainty, it is likely that some business tenants, occupying the Council’s commercial portfolio, will encounter financial difficulties and find it difficult to continue operating their businesses.
- 1.7 Ultimately some businesses may fail and this may result in void periods before re-letting the units potentially at rents at a lower level.
- 1.8 The above situation will have a number of impacts:
  - The council will lose rental income
  - Business Rates income will fall
  - Current legislation provides that the council will be liable for Empty Property Business Rates
  - Increase in local unemployment rates

- 1.9 A number of approaches have been already been made from a small number of Council commercial tenants stating that they are having operating difficulties.

## **2      Options Considered**

- 2.1 To protect the income from the commercial portfolio, the Assistant Director – Property and Projects needs a greater degree of flexibility to assess the circumstances of individual tenants claiming to have operating problems, and thereafter take action to vary lease/tenancy terms.
- 2.2 In assessing a tenant’s claim that they are suffering financial difficulty the tenant will be required to provide evidence by the submission of :
  - the most recent audited accounts
  - current profit and loss figures

- turnover predictions
- an accountant's letter certifying the financial information and providing a statement on the current trading position.

2.3 With this information, the Assistant Director – Property and Projects will in consultation with the Assistant Director – Resources and the Portfolio Holder for Business Development, consider the appropriate measures to be taken.

2.4 Appropriate measures could include (but not exclusively):

- monthly payment of rent (as opposed to quarterly)
- temporary rent reduction
- rent holiday for periods of closure
- deferment of rent payment
- other measures as may be appropriate

2.5 The above measures will only be implemented if it is considered that the measures will help to save the business and that the action is in the Council's interest. Any ongoing measures implemented will be reviewed at 6 monthly intervals.

2.6 The aim of this proposal is not only to assist local businesses, but also to protect the Council's revenue income. A lost tenant represents lost income whereas a retained tenant on a temporarily reduced rent, for example, represents a greater degree of protection to the Council's income stream in the short term.

### **3 Policy Implications**

3.1 None

### **4 Financial Implications**

4.1 The precise financial implications to the Council are difficult to assess

4.2 Any measures taken will be "capped" at £35,000 per case per request and will be reported through to Corporate Performance Panel as part of the periodic Asset Management Report.

4.3 The cost of any assistance will be met from within Property Services budgets, namely Miscellaneous Land Sales (below £10,000) that are available as revenue funding, and the Industrial Estates Reserve. If support becomes necessary over a longer period then Cabinet will be asked to reconsider the funding issue.

### **5 Personnel Implications**

5.1 None

### **6 Environmental Considerations**

6.1 None

### **7 Statutory Considerations**

7.1 State aid legislation applies to assistance of a value over €200,000 over a rolling three year period; the Commission view is that aid under this level is

too low to make any impact on competition. In order to ensure compliance, it is proposed that we apply a budget limit of £150,000 in the assistance we can offer under this scheme.

## **8      Equality Impact Assessment (EIA)**

- 8.1    Not required

## **9      Risk Management Implications**

- 9.1    Without the introduction of the proposed flexibility to the current Scheme of Delegation, Officers would need to report financial information to Cabinet on a case by case basis, as they arose. This process could be too slow and delay could have an adverse impact both upon the tenant concerned, and the Council.
- 9.2    There is a risk of adverse publicity around grants; both from public perception of assisting businesses who rent property from the borough council or from demanding rent from our tenants and being seen as working against local businesses.

## **10     Declarations of Interest / Dispensations Granted**

## **11     Background Papers**

(Definition : Unpublished work relied on to a material extent in preparing the report that disclose facts or matters on which the report or an important part of the report is based. A copy of all background papers must be supplied to Democratic Services with the report for publishing with the agenda)

**Pre-Screening Equality Impact  
Assessment**

Borough Council of  
**King's Lynn &  
West Norfolk**



Name of policy/service/function					
Is this a new or existing policy/ service/function?	New / Existing (delete as appropriate)				
Brief summary/description of the main aims of the policy/service/function being screened.  Please state if this policy/service is rigidly constrained by statutory obligations					
Question	Answer				
<p><b>1. Is there any reason to believe that the policy/service/function could have a specific impact on people from one or more of the following groups according to their different protected characteristic, for example, because they have particular needs, experiences, issues or priorities or in terms of ability to access the service?</b></p> <p>Please tick the relevant box for each group.</p> <p>NB. Equality neutral means no negative impact on any group.</p>	Positive	Negative	Neutral	Unsure	
	Age				
	Disability				
	Gender				
	Gender Re-assignment				
	Marriage/civil partnership				
	Pregnancy & maternity				
	Race				
	Religion or belief				
	Sexual orientation				
Other (eg low income)					

<b>Question</b>	<b>Answer</b>	<b>Comments</b>
2. Is the proposed policy/service likely to affect relations between certain equality communities or to damage relations between the equality communities and the Council, for example because it is seen as favouring a particular community or denying opportunities to another?	Yes / No	
3. Could this policy/service be perceived as impacting on communities differently?	Yes / No	
4. Is the policy/service specifically designed to tackle evidence of disadvantage or potential discrimination?	Yes / No	
5. Are any impacts identified above minor and if so, can these be eliminated or reduced by minor actions?  If yes, please agree actions with a member of the Corporate Equalities Working Group and list agreed actions in the comments section	Yes / No	<p><b>Actions:</b></p> <p>.....</p> <p><b>Actions agreed by EWG member:</b></p> <p>.....</p>
<p><b>If 'yes' to questions 2 - 4 a full impact assessment will be required unless comments are provided to explain why this is not felt necessary:</b></p> <p>.....</p>		
<p><b>Decision agreed by EWG member:</b> .....</p>		
<b>Assessment completed by:</b>  <b>Name</b>		
<b>Job title</b>		
<b>Date</b>		