

**Agenda Item No:** 8

**Report To:** Cabinet

**Date of Meeting:** 27<sup>th</sup> October 2022

**Report Title:** Corporate Property Performance Annual Report 2021/22

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**Portfolio Holder:** Cllr. Matthew Forest, Environment Property & Recreation



**Summary:**

The report includes market update, revenue, and asset performance during the financial year 2021-2022, as well as the ongoing activities by Estates Surveyors to ensure positive progress for the next financial year and onwards. The report also identifies progress on the delivery of the Corporate Asset Management Strategy 2020-2024 and provides a summary of how the council's main commercial assets are performing.

**Key Decision:** YES

**Significantly Affected Wards:** All

**Recommendations:** To:-

- I. **Note the performance of the Council's corporate property portfolio during the financial year 2021/2022 as stated in the Corporate Property Income Schedule Appendix 1**
- II. **Note external factors affecting the commercial market conditions**
- III. **Authorise the Estates team to charge fees and to give delegated authority to the Assistant Director of Environment Property and Recreation to negotiate on these fees where necessary.**
- IV. **Authorise the charging of non-refundable deposits on Land Enquiries to cover administrative costs and officer time with the deposit being deducted from the consideration upon completion of the resulting transaction**
- V. **To support the implementation of new processes and procedures in line with best practice according to the Royal Institution of Chartered Surveyors (RICS)**

**Policy Overview:** Corporate Asset Management Strategy 2020-2024

<b>Financial Implications:</b>	The financial implications are detailed in the Corporate Property Income Schedule attached at <b>Appendix 1</b>
<b>Legal Implications:</b>	None apart from adding the new delegations to the Constitution. This has been reviewed by legal.
<b>Equalities Impact Assessment:</b>	Not applicable
<b>Data Protection Impact Assessment:</b>	Not applicable
<b>Risk Assessment (Risk Appetite Statement):</b>	The risks relating to each property are assessed at each transaction, as part of the letting and lease renewal process and where the tenants change.
<b>Sustainability Implications:</b>	This is reviewed, in line with ABC's Corporate Plan, as part of the wider Asset Management Strategy for the whole portfolio and when acquiring and disposing of assets.
<b>Other Material Implications:</b>	None
<b>Exempt from Publication:</b>	<b>YES. Appendices 1 and 4 which include commercially sensitive information.</b>  <b>Not For Publication by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 and the public interest in maintaining the exemption outweighs the public interest in disclosing the information</b>  <b>Appendix 1 – EXEMPT - Corporate Property Income Schedule 2021/ 2022</b> <b>Appendix 2 – Proposed table of Key Performance Indicators</b> <b>Appendix 3 – MEES Regulations</b> <b>Appendix 4 - EXEMPT – Individual Commercial Activity</b>
<b>Background Papers:</b>	None
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**Report Title:** Corporate Property Performance Annual Report 2021/22

**Introduction and Background**

1. The purpose of this report is to provide the Cabinet with an update on the annual progress of the council's asset portfolio. It includes details of proposed changes to the current action plan and seeks approval to instigate such amendments. The report includes market update, revenue, and asset performance during the financial year 2021-2022, as well as the ongoing activities by Estates Surveyors to ensure positive progress for the next financial year and onwards.
2. The Estates team manage the Council's diverse portfolio in line with the objectives linked to the Targeted Growth theme within the 'Corporate Plan 2022-2024, and more specifically in the 'Asset Management Strategy, 2020-2024'. This includes the ongoing management of the existing investment portfolio, to identify new opportunities, as well as identifying any land and buildings that are surplus to the Council's requirements.
3. Data management is key in managing the Council's assets. Estates and Property Building Services Officers have been working on delivering one digital platform to manage the Council's Estate. This will provide automated lease trigger dates and milestones such as lease end dates and rent reviews to ensure these are proactively managed in the future. Some areas of the system have already gone live which will be closely followed by this Team around the end of October this year.
4. A number of processes and procedures are being reviewed and implemented to ensure that Estates Services follow the guidance and standards set by the Royal Institution of Chartered Surveyors (RICS). The majority of the Estates Officers are Chartered Surveyors and promoting the RICS ethics and professional conduct is a professional requisite.
5. Processes and procedures will assist in the effective management of assets over both the short and long term. A robust process is followed when managing vacant units, marketing space, ongoing management when assets are occupied and also when tenants vacate their premises. An end of tenancy inspection is carried out but also a dilapidation survey to ensure that tenants yield up the premises in accordance with their lease terms. As a result, the risk of the council having to carry out repair works and pay and cover the associated costs is reduced.
6. There are several vacant units being marketed and there is a notable increase in demand for units from start-up businesses and independent operators opening and creating their own brands. It must be noted that there is a high level of uncertainty in the market with rising living costs, changes to the budget, increased interest rates and material and labour shortages being the main concern of interested parties.

7. Cradick's Retail Property Consultants have confirmed evidence of a recovering industry in favoured tourist towns but larger towns with an abundance of retail space remain difficult. Cradick's comment, *'We are seeing across the southeast that the larger premises in town centres remain harder to let, the size attracts a higher rent, but also higher business rates which cannot be altered by a landlord, and therefore remain a hindrance to getting these larger units occupied'*.
8. More occupiers look at towns and sites on a headline costs basis, as opposed to rental tone. This benefits the smaller towns with good footfall and moderate rents but the towns with an abundance of large units which were previously let to mult-nationals struggle. In terms of retail demand, most enquiries now are from food, beverage, leisure and experiential businesses. It is noted that on the larger retail and remaining vacant industrial units, positive discussions are being held with interested parties. Office interest remains stagnant and existing tenants have expressed their wish to downsize or vacate at their first opportunity.
9. Landlord and Tenant relations are important during such times in understanding tenant positions and working with those tenants to reduce potential risk of increasing vacancies. Although office demand remains low, there is more interest in the new to like-new condition suites with high specifications and in desirable locations (Class A office space). Recent positive interest has been consistent in the Food, Beverage, Leisure, and Beauty sector over the last quarter, but this is a sign of the structural changes taking place in the retail market where experiential leisure venues are in greater demand. In relation to the Industrial sector, demand is proving strong within the Borough. New lettings have been agreed across the portfolio and vacant units are being filled.
10. New lettings, lease renewals and disposals are negotiated with the aim to achieve 'Market Rent' and 'Market Value'. The Council does, of course, have a statutory duty to ensure, so far as reasonably possible, that public assets are not disposed at an undervalue without Secretary of State's approval when required. The purpose of the Council's policies and processes is to reflect changes and keep rental rates in line with the current market. It should be noted that at times social value and community benefits will outweigh the potential financial returns when considering the overall outcome.
11. Much of the day-to-day estates management activities include reviewing existing agreements which are in need of updating. Estates are able to review best usage, alternative uses and identify opportunities to optimise space and returns. Such actions include new lettings, review of lease terms and, where necessary, early lease surrenders. This is a key objective to support the delivery of services to the residents and visitors.
12. Regular tenant liaison meetings enable Estates officers to ensure lease terms are adhered to. More importantly it builds a positive landlord and tenant relationship, the benefits of which are experienced by both parties. Frequent

inspections of the condition and state of repair of the council's land and buildings improve the ability to manage the assets in a more efficient and effective way. Records are kept up-to-date and are more accurate. Following meetings with tenants operating at Elwick Place, it was identified that marketing agents were required to enhance business and custom opportunities, and they are now appointed.

13. The team have been proactively liaising with tenants in arrears to investigate reasons behind the non-payment of rent, service charges and/or insurance rent and to pursue for recovery wherever possible. The leases are reviewed to confirm the council's options, which may include the use of rent deposits and pursuing guarantors. There are other options to consider, and these can be identified upon further due diligence of the tenant's accounts, general market condition and performance of their businesses. Each case needs to be looked at individually but has the same general approach following the new Debt Recovery Process which is complementary to the Accounts Receivable process already in place. The first half of 2022/23 has provided an overall collection rate of rent at 78%. Due to the challenging economic climate, the percentage collection rate is likely to reduce with the ever-changing market, political decisions, and customer movement.
14. 25 March 2022 marked the end of the moratorium period that protected commercial tenants against action by landlords for non-payment of rent resulting from the Covid pandemic. Although the council are now able to revert to the use of normal methods to recover the sums owed from tenants, and/or regain possession of premises, it should be noted that there are several external factors that threaten the success of businesses. As such each case is reviewed on its own merits and actions agreed on how best to progress matters. Where arrears are occurring, the circumstances are reviewed every 6 weeks and appropriate actions agreed.
15. The period for 2021/2022, the expected rental amount was £4,517,642, the amount received was £3,889,931 with the sum owed to the council as a corporate landlord remaining high at £627,711. The percentage of rent received as a proportion of the expected rent was 86.1%.

### **Performance, Objectives and Achievements:**

- There are a total of 388 non-residential assets under the General Fund equating to approx. 399,701 square feet of lettable space. **Appendix 1** provides a detailed property list.
- Of these assets, 337,580 square feet are let out under a form of legal agreement
- There are currently 22 vacant units/suites considered to be lettable space and are actively being marketed both in-house and/or with Estate Agents.
- The council achieved a total revenue of c. £3.9million in year 2021-2022, as shown in **Appendix 1**.
- The predicted revenue for the year 2022-2023 is £3.6 million.
- The outstanding rent debt for 2021/22 was c. £628,000 (this doesn't include arrears for previous years that are being proactively managed)

- Service charges will be demanded, and works will be carried out on communal areas where there are multiple tenants/occupiers
  - The property commercial (non HRA) portfolio is worth more than £134 million based on Wilks Head & Eve LLP, 'Summary of Value' for 2022-2023
  - The KPIs that are currently measurable indicate the following performance: -
    - Less vacant units
    - Increased revenue
    - debts/arrears owing to the Council are lower compared to previous year
16. The Estates Team are reviewing the service charge management and will be bringing more responsibility in-house to save on outsourced management costs. Service charge is an additional financial pressure on the council's tenant and it is important that this is managed to obtain the best possible price and cost which is reflective in the standards of services expected from multi-let assets. A review of existing service charges will take place by the end of the year for competitive pricing. During tenant liaison meetings, the repair and maintenance liabilities will be made clearer to both landlord and tenant.
17. In order to effectively manage and monitor the weaknesses, successes and achievements of the property portfolio. New key performance indicators (KPI) have been introduced and will be reviewed annually. The table of proposed KPI's is shown at **Appendix 2**. The performance indicators will clearly identify areas of success and areas that need attention. The KPI results will be reviewed and agreed to improve the value of the Council's assets. In parallel, the team are working to identify the best use of assets in order to optimise space and efficiency which involves the following: lease re-negotiations, lease restructures, deed of variations, surrenders and re-grants across the council's portfolio.
18. As a result of a number of statutory obligations and central government pledges, sub-groups of selected officers within the Property Department have formed to ensure targets are met. An example is The MEES Regulations which require a minimum energy efficiency standard to be met before properties in England and Wales can be let subject to certain criteria. Detailed requirements under the Standards can be found at **Appendix 3**. This creates further challenges in ensuring that all properties are compliant and meeting standards in order to be viable letting space.

## Proposal

19. Following recent monitoring of the workload it has been identified that by introducing and promoting professional fees and non-refundable deposits upon request to purchase council land, will assist with the removal of any non-productive enquiries.
20. The majority of the Estates officers are qualified Chartered Surveyors with one officer having the additional qualification as a Registered Valuer. It is therefore proposed and reasonable to charge professional fees on business tenancy negotiations, grant of licences and consents as well as Land Enquiry dealings. We therefore propose a standard rate, but it should be noted that some cases will be open to negotiation by the case officer dependent on

complexities and extended length of time expected on the case. In the event that a fee quote exceeds the standard rate, the Assistant Director of Environment, Property & Recreation is notified for comment.

21. Proposed Standard Rates

<b>Details of Commercial transaction / Dealings</b>	<b>£ per transaction</b> Minimum charge but dependent on time spent/complexity
New letting/lease agreements	<b>£250</b>
Consent to assign, sublet, underlet	<b>£250</b>
Consent for alteration	<b>£250</b>
Retrospective Consent for alteration	<b>£400</b>
Licences and Tenancies at Will	<b>£250</b>
Easements and surrenders	<b>£250</b>
Acquisition and disposal	<b>£250</b>
Charity, non-profit organisations upon evidence of accounts	<b>£0 - £50</b>

22. It should be noted that these fees are additional to those charged by legal services.

### **Equalities Impact Assessment**

23. No changes

### **Consultation Planned or Undertaken**

24. None

### **Other Options Considered**

25. Other options include either to continue not charging professional fees or considering an alternative minimum charge. The impact on the volume of enquiries should be noted if either of these options were chosen.

26. Consideration was given to continue not charging a non-refundable deposit on sales of council land. The risk of enquirers changing their mind or putting their request on hold increases. Estates Officers are not able to prioritise or be confident that enquiries received will proceed to completion.

### **Reasons for Supporting Option Recommended**

27. Additional revenue

28. Ability to prioritise workload

29. To cover the costs of the council's in-house professional staff or the appointment of external surveyors when necessary.

## **Next Steps in Process**

30. To publicise the new charges
31. To progress with quoting professional fees on transactions where Estates are able to charge.

## **Conclusion**

32. The Council continues to achieve significant income from its diverse commercial property portfolio. The introduction of the new fees and the asset management system along with the proactive, collaborative approach to reviewing the Council's portfolio of assets will help the Estates Team to manage their time and the portfolio effectively and efficiently especially at a time of overall uncertainty in the market.

## **Portfolio Holder's Views**

33. It has been a challenging year being a corporate landlord for the Council. Throughout 2021/22 we have taken a balanced approach by supporting our tenants through these times, advising of grants available and collecting the rental income due. It is pleasing to note that Ashford is holding up well in the current climate and I am sure our diverse portfolio along with robust and flexible management of the assets, holds us in a strong position. This is required in order to generate the commercial income for the Borough Council to continue to deliver local services well for the residents of the Borough.

## **Contact and Email**

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