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## **Asset Disposal**

To: **Cabinet Meeting – 3<sup>rd</sup> April 2014**

Main Portfolio Area: **Operational Services**

By: **Edwina Crowley, Property Manager**

Classification: **Unrestricted**

Ward: **Eastcliff Ward**

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**Summary:** **To consider the proposals put forward by Rank Corporation plc and others in connection with the Royal Victoria Pavillion, Ramsgate.**

## **For Decision**

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### **1.0 Introduction and Background**

- 1.1 The Council uses its property assets for a range of purposes including direct delivery of services, revenue generation and supporting corporate plan objectives. The Royal Pavilion (RP), shown on Annex 1, is owned by the Council as an investment property the income received is used to financially support service provision in the District.
- 1.2 The property is held on a ground lease vested in a subsidiary company of Rank Corporation plc. The property has been vacant for about eight years.
- 1.3 The ground lease has approximately 30 years unexpired and Rank has been seeking to sell or dispose of their lease since they have vacated.
- 1.4 On 20<sup>th</sup> June 2013 Cabinet gave agreement to enable the Rank to market an extension to the lease for a further period of approximately 70 years, so that the total interest on offer would be 100 years. The reason for this was to support the investment and not to increase the value of the lease to the current lessees.

### **2.0 The Current Situation**

- 2.1 Rank vacated the building fully eight years ago and has no further planned use for the building. At present, the Rank subsidiary is obliged to pay a rent, in addition to which they are responsible for maintaining the property and paying for all outgoings in connection with the property (for example insurance).
- 2.2 Rank are therefore seeking to dispose of their liability and have been using the services of a specialist agent to market the building and the agents have received a variety of expressions from individuals looking to undertake mixed use schemes principally involving leisure and/or retail uses.
- 2.3 Thanet Council are now in receipt of proposals by Rank and others in connection with this property and as this matter is a complex case, sought legal advice from Lincoln's Inn Chambers (Counsel) in December 2013. The guidance sought was for the purposes of establishing whether the terms if accepted would amount to surrender

(acquisition) and disposal (grant of a new lease) and if so what process would be required to ensure the Council discharges its fiduciary duties.

- 2.3.1 Counsel advised that the transactions would technically amount to an acquisition and disposal and whilst it was not appropriate for the Council to market the property itself, it must comply with the provisions of Local Government Act 1972, Section 123 and in doing this will ensure that the disposal is not ultra vires.
- 2.3.2 Counsel further advised that to satisfy these provisions the Council must obtain advice from a property qualified and experience valuer as to the terms and whether they satisfy the requirement of section 123(2). Provided the council receives such advice and follows it and it is not known to be erroneous then the Council will be protected against any challenge if it considers the terms to be the best consideration that can reasonably be obtained.
- 2.3.3 The Estates department therefore undertook a diligent process to identify an appropriately qualified adviser and appointed a senior chartered surveyor experienced in valuations of this nature through Davis Coffey Lyons a specialist leisure consultancy.
- 2.3.4 The details of the proposals for the surrender submitted by Rank Plc, and all proposals interested in acquiring the lease were submitted to the valuer for consideration. The valuer made a visit to the property and gained access to ensure they were familiar with the structure and its condition. They looked at the proposals and using their national market knowledge compared the proposals with other current transactions. Furthermore, they undertook a due diligence exercise on the financial capability of the interested parties to undertake a lease on a property of this scale and invest in the property in a timely manner to ensure that the operator could financially support its proposals to open the property and create employment.
- 2.3.5 The valuers report is now received and Cabinet are being asked to consider this advice when making their decision on the way forward. Annex 2 provides a summary of the valuer's advice.
- 2.3.6 The process to date is about ensuring the Council have made satisfactory enquires to establish that any incoming operator has the financial capacity to take on the Royal Pavilion, and if the decision is to proceed the process will then be a period of consultation period of 21 days with Ward Members and consultation with members of the public via publication on Thanet District council web site.
- 2.3.7 If there are no valid objections following this consultation period, then the Estates Department will continue lease negotiations.
- 2.3.8 The lease will be carefully negotiated to ensure that the incoming tenant will be obliged to complete the works and commence trading in set timescale, control in terms of layout and quality of fit out, keep open provisions, maximum and minimum opening hours on a daily basis, use and trading hours of external areas and detailed user clause provisions.
- 2.3.9 Other considerations that will need to be satisfied are a long stop date following exchange being conditional on the tenant obtaining satisfactory planning consent and change of use for the property together with all necessary listed building/conservation contents and obtaining a satisfactory premises licence.

### **3.0 Options**

- 3.1 To not accept the valuer's advice as contained in Annex 2 and refuse the proposals put forward.
- 3.2 To accept the valuer's advice in Annex 2 and continue with the process.

### **4.0 Next Steps**

- 4.1 The next steps depend upon the decision taken.

### **5.0 Corporate Implications**

#### **5.1 Financial and VAT**

- 5.1.1 There is no budget allowance made in the budget plans to spend money on this building as it is demised to a tenant on a full repairing and insuring basis. Any decision taken must consider the financial consequences of exposing the Council to unplanned expenditure.
- 5.1.2 There are no VAT implications.

#### **5.2 Legal**

- 5.2.1 Legal advice has been taken both internally and externally through Lincolns Inn Chambers and this advice has been taken into account throughout this report.

#### **5.3 Corporate**

- 5.3.1 The process followed is in support of the Corporate Plan, Priority 1, to bring this property back into use which will assist in regeneration of the area and ensure job creation.

#### **5.4 Equity and Equalities**

- 5.4.1 There are no equalities impacts as a result of these proposals.

### **6.0 Recommendation**

- 6.1 That Cabinet accept the expert opinion and agree to option 3.2 above.

### **7.0 Decision Making Process**

- 7.1 This is a key decision to go to Council and subject to call in.

Future Meeting: Cabinet Meeting	Date: 1st May 2014
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Contact Officer:	Edwina Crowley, Property Manager
Reporting to:	Mark Seed, Head of Operations

### **Annex List**

Annex 1	Goal plan of premises
Annex 2	Summary of Valuer's Advice, restricted

## Background Papers

Title	Details of where to access copy
Asset Disposal Cabinet Paper 20 June 2012	TOM

## Corporate Consultation Undertaken

Finance	Sarah Martin, Financial Services Manager
Legal	Harvey Patterson, Corporate & Regulatory Services Manager