

## **Approve lease arrangements for 53-57 High Street Margate to deliver the Margate Levelling Up Fund project.**

<b>Extraordinary Cabinet</b>	13 October, 2022
<b>Report Author</b>	Louise Askew, Director of Regeneration
<b>Portfolio Holder</b>	Cllr Reece Pugh, Deputy Leader and Cabinet Member for Economic Development
<b>Status</b>	For Decision
<b>Classification:</b>	Unrestricted
<b>Key Decision</b>	Yes
<b>Reasons for Key</b>	For the acquisition or disposal of land or property with a value of £750,000 or above
<b>Previously Considered by</b>	<a href="#">Cabinet - 17 June, 2021</a> <a href="#">Cabinet - 28 April, 2022</a>
<b>Ward:</b>	Margate Central

### **Executive Summary:**

In June 2021 the Council submitted a Levelling Up Fund bid for Margate on behalf of EKC Group in order to deliver the Margate Digital Campus. The Council and EKC Group were successfully awarded £6,306,078.

The Margate Digital Campus is to be hosted within 53-57 High Street Margate, a building which is owned in a Joint Venture agreement between Thanet District Council and Homes England. This paper sets out the terms in which the lease arrangements are due to be made with EKC Group in the leasing of 53-57 High Street.

### **Recommendation(s):**

1. Give delegated authority to the Director of Regeneration and the Acting Deputy Chief Executive to seek approval for the Heads of Terms as members of the Joint Venture Board between Thanet District Council and Homes England.
2. Give delegated authority to the Interim Director of Property, in consultation with the Principal Surveyor and the Economic Development Portfolio Holder to agree Heads of Terms and enter into the relevant negotiations for a lease with EKC Group.
3. To give delegated authority to the Interim Head of Legal and Monitoring to prepare and complete the lease and all other ancillary documents on the terms to be agreed, and sign all documents necessary to give effect to the lease agreement.

## **Corporate Implications**

### **Financial and Value for Money**

The Council is the Accountable Body for the Levelling Up Fund. The Council has the below in place to deal with matters relating to the funding, management, and assurance protocols are in place to:

- Ensure decisions are made in accordance with good governance principles
- Ensure transparency requirements are met
- Provide a Local Assurance Process
- Receive and account for the funding allocation
- Monitor and evaluate the delivery of individual projects
- Submit regular reports to DLUHC

For the Levelling Up Funded Projects an internal Management Board has been established and a Programme Scrutiny Panel to ensure the projects are being delivered in line with good project management principles - keeping to time and budget, and reviewing the risks.

The Section 151 Officer is required to scrutinise and approve regular monitoring returns (quarterly) to DLUHC. These returns will cover actual and forecast spend, alongside output metrics. These returns will cover actual and forecast spend, alongside output metrics. The grant documents will require the Monitoring and Evaluation reports to be completed by the third party.

The Council is waiting on a jointly commissioned appraisal with Homes England on current use value and estimate of value based on the lease terms being negotiated.

### **Legal**

This report requires the development and negotiation of Heads of Terms to lease the property to EKC Group. Agreement will be required from Homes England in order to agree the lease arrangements.

This is covered within the Council's Constitution for leasing/buying assets.

### **Risk Management**

The Council is responsible for ensuring that there are effective and adequate risk management and control systems in place to manage the major risks to which the Levelling Up Fund is exposed. As part of the development of the bid a risk assessment was put together, and EKC Group reports on the risk register on a quarterly basis in the Monitoring and Evaluation submissions to DLUHC. The Risks identified in the Risk Register as "High" will be reviewed regularly with EKC Group, to ensure there is no risk to the Council.

Without securing the lease arrangements the Council is at risk of the project not being delivered as agreed and approved by DLUHC. Officers have engaged with Homes England at an early stage to progress the lease arrangements for this project.

As the Council is the Accountable Body for the Levelling Up Funding but is not delivering the project directly, but through a third party a standard grant was commissioned through an external legal team, to give the Council the confidence that the grant will be delivered in accordance with the requirements placed on the Council as the Accountable Body. Each grant agreement will include specific requirements relating to the specific project. For grants greater than £1,000,000 this will be commissioned through the external legal team.

## **Corporate**

The Margate Levelling Up Fund Project delivers against the Council's corporate priority for Growth, including encouraging the rejuvenation of our towns, creating new opportunities to gain skills and therefore employment.

## **Equality Act 2010 & Public Sector Equality Duty**

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

## **Corporate Priorities**

This report relates to the following corporate priorities: -

- *Growth*

## **1.0 Introduction**

- 1.1 53-57 High Street was formerly home to Marks and Spencers in Margate High Street and was purchased through grant provision from the South East England Development Agency (SEEDA). A joint Venture was entered into between Thanet District Council and SEEDA, with a Joint Venture Board put in place. The site was passed to Homes England, who are now responsible for the legacy left by SEEDA in terms of the regeneration opportunity provided by this site.
- 1.2 The building provides the public sector the opportunity to utilise one of its assets to support a number of regeneration and levelling up initiatives in Margate, and in particular one of the most deprived wards in the country. The property was purchased for regeneration purposes, and it is being argued that the ambition that it would be retail that would deliver the regeneration opportunities is unviable.
- 1.3 A retail/residential led scheme was worked up, however no planning permission was applied for, then the financial crash of 2008 and subsequent changes in the retail sector resulted in the initial vision for the site not being deliverable/viable. This remains the case today for the following reasons:

- Resale values of residential grossly overestimated (the levels used are still not being achieved)
- The cost of redevelopment being underestimated (listed building status, large variance in levels across the site, deep floor plan necessitating the need for light wells and reducing the developable area)
- Rights of escape exist across the roof, thereby limiting re-development opportunities
- The upper floors of the adjacent property have been developed for residential units and have the associated rights to light which stymies development in any greater bulk and mass.
- There are a number of large, vacant/temporary uses retail spaces in Margate High Street - particularly the lower end.
- Vacant property prices are skewed by assets above market values being available for sale.

1.4 53-57 High Street - following a decision by the JV board, 3 March 2011, that the pursuit of the scheme at that time was not viable, it was therefore agreed that letting the premises as a whole would minimise the Council's financial risk, whilst protecting the long term development of the whole site. A letting to a low cost fashion retailer was secured (Store 21). The lease was for 10 years from 23 March 2011 with a break provision (subject to the payment of compensation by the JV should a redevelopment scheme be progressed). Store 21 went into administration and the lease was surrendered in July 2017.

1.5 Since this time, no further lettings on commercial terms have been secured. The premises or the window displays have been used intermittently as event / gallery space but these have not generated any rents. The Council has advertised the property, for sale or lease, on their website for a number of years, but did not receive any serious long term interest.

1.6 The Joint Venture Agreement remains in place as the mechanism for managing the properties. To this end the aims of the JV remain in place and the parties are required to act in accordance with the JV and not to do anything to the detriment of either party. The Council remains responsible for the maintenance of properties held within the JV. In 2021 £750,000 was awarded to Thanet District Council as an Accelerated Grant by the Department for Levelling Up, Housing and Communities due to its Town Deal status. The grant was used to deliver improvements to the site with the focus on aiding bringing it back into occupancy. The funding was used to make repairs to the roof, asbestos removal and electrical strip out. Homes England approved delivery of this grant funding and construction is in progress, with completion in July 2022.

## **2.0 Margate Levelling Up Fund project**

2.1 The Council submitted the bid for the MargateDigital Campus on behalf of EKC Group in support of the Council's corporate priority for Growth, including encouraging the rejuvenation of our high streets and providing opportunities to people for skills and training, particularly young people. The Government's priorities and aspirations for town centres is to see improvements within town centres, including the

repurposing of empty commercial properties, to help create jobs and build stronger and more resilient local economies.

- 2.2 The Creative Industries is a growth sector in Thanet, which was clearly identified in the Margate Town Investment Plan. The Margate Digital campus will directly deliver outcomes that provide support for the creative industries through education and skills provision, and economically improving the high street.
- 2.3 Council Officers are in dialogue with Homes England on this proposal, and the Chief Executive of EKC Group has presented the Margate Digital proposal to their team responsible for the Joint Venture. This decision marks a step in gaining approval from Homes England to lease the asset.
- 2.4 The Council has a statutory duty to dispose of land at the best price reasonably obtainable in accordance with Section 123 of the Local Government Act 1972. Due to the nature of funding for Further Education Colleges, the financial model means they are over-reliant on government policy that does not provide opportunity for investment of the scale of MargateDigital without project match funding, with strict criteria and outcomes applied to them. The Government sets the price and contract limits for different types of provision and therefore there is little headroom that enables colleges to afford to lease premises for this scale of provision. EKC Group does not own any assets in Margate, so is therefore reliant on engaging with other public sector property owners who support the regeneration and place making agenda. EKC Group's business plan shows that the eventual growth in student numbers at the Margate Digital campus will enable the project to start to draw-even by year eight or nine of opening the provision. The College are planning to then have an overt income to reinvest back into Margate Digital by year ten of operating; therefore, creating a sustainable model for the offer.
- 2.5 It is therefore proposed that EKC Group have a ten year lease, at nil rent, full repairing and insuring, given the transformational benefits the establishment of a college in the town could bring to the area on the basis of regeneration returns from the proposed project. Periodic rent reviews based on an agreed formula for assessing the performance of the project against the business plan will be proposed through the Heads of Terms.
- 2.6 The Heads of Terms will allow EKC Group to have the ability to provide a sublet in order to provide a rental income to support the costs of running and maintaining the building. EKC Group are required to consider the conditions placed on the Levelling Up Fund monies in terms of Subsidy Control when negotiating these lease arrangements.
- 2.7 On 17 June, 2021 Cabinet approved the submission of a bid to the Levelling Up Fund for the MargateDigital project. Then on 28 April the Cabinet approved the provision of a grant to EKC Group, through the Levelling Up Fund monies, to deliver this project.
- 2.8 This decision will enable the delivery of this funding bid, which includes more than £6.3m of capital investment, in one of the most deprived wards in Margate. This project aims to improve skills and education provision in Margate, support the repurposing of key buildings in the town centre, and encourage pathways into the creative industries.

## 3.0 Options

- 3.1 The only alternatives are to either give the funding back to central government, or for the Council to deliver the Margate Digital campus themselves. The Council is not in the position to deliver an education campus, and therefore the only option is to provide EKC Group with a lease in order that they can deliver the scheme they put forward for the Levelling Up Fund programme, which was awarded the grant funding.

Contact Officer: *Louise Askew, Director of Regeneration*

Interim Reporting to: *Bob Porter, Acting Corporate Director of Place*

### Background Papers

[Margate Digital Levelling Up Fund bid](#)

### Corporate Consultation

**Finance:** Chris Blundell, Acting Deputy Chief Executive

**Legal:** Sameera Khan, Interim Head of Legal & Monitoring Officer