

Report to: Cabinet

Date of Meeting: 7 March 2022

Report Title: Hastings Contemporary

Report By: Chief Finance Officer

and

Assistant Director Regeneration and Culture

Purpose of Report

The report recommends that the Council accepts of the surrender of the existing lease and agree terms for a new lease with the Hastings Contemporary Gallery.

Recommendation(s)

- 1. To recommend to Full Council that delegated authority be granted to the Chief Finance Officer in consultation with the Assistant Director Regeneration and Culture and the Leader of the Council to agree terms to accept a surrender of the lease to Gallerium Establishment Ltd (GEL)**
- 2. To recommend to Full Council to delegate authority to the Chief Finance Officer in consultation with the Assistant Director Regeneration and Culture, and the Leader of the Council to agree terms to grant a lease to Hastings Contemporary (HC)**

Reasons for Recommendations

The existing lessee has offered the building to the Council as a public benefit for the people of Hastings on the basis that it is retained for its current use. This presents an opportunity for the Council to secure the future of the site.

Delegated authority is sought in order to negotiate and complete the respective agreements in a short period.

Introduction

1. GEL have indicated that they would be prepared to surrender their lease of the Hastings Contemporary Gallery site as shown edged red on the attached plan (the site) and effectively gift this to the Council as a public benefit for the people of Hastings.

Background

2. The Council owns the freehold of the site (Hastings Contemporary/Jerwood gallery). The existing lessee, who constructed the building at some considerable costs has offered the building to the Council on the basis that it is retained for its current use.
3. Should the Council accept the surrender of the lease it would be in a position to grant a new long-term lease to an organisation that would be well placed to attract grant funding; this would in turn help to ensure the longer-term sustainability of the gallery and its associated activities.
4. The Council in accepting the lease back would thereafter be responsible for the building and its associated costs, but these costs would be met by Hastings Contemporary.

Legal Agreements

5. The site is let to GEL on a full repairing and insuring lease (the head lease) for a term of 99 years from 1 September 2010 at a rent of a peppercorn per annum.
6. GEL sublet the site to HC. The contractual term of this agreement has expired but HC continue in occupation holding over under the Landlord & Tenant Act 1954. HC require a long-term lease so that they can ensure sustainability of the site by securing necessary external funding.

Proposal

7. GEL's legal advisers have prepared draft Heads of Terms for a lease surrender, and these are summarised below:
 - a. The surrender to be for nil consideration
 - b. The Council will not dispose of the site without the prior written consent of GEL except for granting a renewal of the HC lease
 - c. The Council will not change the use of the site without the prior written consent of GEL
 - d. If the Council disposes of the site or changes the use during a defined period, then an uplift payment will be made to GEL on an agreed basis

8. Once the head lease has been surrendered the Council would be able to grant a renewed lease to HC.
9. Initial discussions have taken place with HC and in principle Heads of Terms for a new lease have been agreed. This would be for a term of 30 years on a full repairing and insuring basis at a rent of £1 per annum if demanded.

Financial Implications

10. Due diligence will need to be undertaken which will include considering the condition of the Gallery building and obtaining an external valuation report.
11. The position in terms of income and liability remains the same as the Council currently receives no rent but has no repairs liability and this will continue.
12. The Council could be left with financial liabilities should the Hastings Contemporary not be sustainable in the future. The site is a very prominent one and could potentially be used for a similar purpose or a variety of other purposes should it ever prove necessary to do so. Any change of use would be subject to the terms negotiated within the surrender agreement as outlined above.

Conclusion

13. It is considered in the best interests of the Council to accept a surrender of the head lease. This will enable us to grant a new long-term lease to help secure the ongoing operation of Hastings Contemporary.

Timetable of Next Steps

14. Please include a list of key actions and the scheduled dates for these:

Action	Key milestone	Due date (provisional)	Responsible
Finalise Heads of Terms for deed of surrender and lease	Legal instructed	TBC	Estates Manager/Legal
Consideration by Full Council	Authority to complete agreements	TBC	Estates Manager
Complete	Deed of surrender and lease signed	TBC	Estates Manager/Legal

Wards Affected

Old Hastings

Implications

Relevant project tools applied? Yes/~~Ne~~

Have you checked this report for plain English and readability? Yes/~~Ne~~

Climate change implications considered? Yes/~~Ne~~

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	N
Crime and Fear of Crime (Section 17)	N
Risk Management	Y
Environmental Issues	N
Economic/Financial Implications	Y
Human Rights Act	N
Organisational Consequences	N
Local People's Views	Y
Anti-Poverty	N

Additional Information

Red line plan of the site.

Officer to Contact

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