



London Borough of Enfield

Report Title	Decision to settle the Morson Road Depot rent review
Report to	Executive Director of Resources
Date of Report	29 th February 2024
Cabinet Member	Cllr Lever
Executive Director / Director	Fay Hammond, Executive Director, Resources Nick Denny, Director of Property
Report Author	Jennifer Lee Jennifer.lee@enfield.gov.uk
Ward(s) affected	All wards
Key Decision Number	KD 5730
Classification	Part 1 Public and Part 2 Private
Reason for exemption	Information relating to the financial or business affairs of any particular person (including the authority holding that information) and commercially sensitive information.

Purpose of Report

1. To seek authority to settle the open market rent review on the Morson Road Depot lease, effective 8th July 2023. The Council is contractually bound to undertake the rent review process through the leasing agreement approved through KD 3486 in 2012.

Recommendations

- I. Agree the revised annual rent in line with the rent review clause in the lease through acceptance of the Calderbank offer (the details of which are set out in the confidential Part II report) at the same level by 1st March 2024.
- II. Delegate authority to the Director of Property that, in the event the Landlord withdraws the Calderbank offer, to proceed with and engages in a third party referral whereby the Independent Expert determines the revised rent.

Background and Options

2. The Council occupy the land and buildings at 7 Morson Road, EN3, by way of a lease originally made between J Murphy & Sons Limited (Landlord) and The Mayor and Burgesses of the London Borough Enfield, dated 8th July 2013. The 5.7 acre site comprises a combination of open storage and accommodation ancillary to the Council's operational fleet.
3. In 2012, KD 3486 approved the relocation to Morson Road by way of a lease (the Lease) from the Landlord. The relocation facilitated consolidation of 4 services from 3 sites into a single operational site.
4. The Lease was granted for a 40-year term from 8th July 2013, at an initial rent of £650,000 pa. The rent review clause within the lease provided for rent reviews at every 5th anniversary of the term on an upwards only basis to the higher of the open market rental value and the passing rent. In the event the parties cannot reach a negotiated settlement, either may refer the matter to an independent surveyor acting as an Independent Expert appointed by the RICS.
5. The rent was first reviewed in July 2018, being the first rent review date, to £905,000 pa, which is the current rent. This was agreed through negotiated settlement between the Landlord's agent at the time, CBRE and the Council representing themselves.
- 6 – 20. Please see Confidential Part II.

Preferred Option and Reasons For Preferred Option

21. Please see Confidential Part II.
22. It is recommended the rent is settled through acceptance of the Calderbank offer.
23. Accepting the rent through the Calderbank offer will create a binding agreement and crucially halt third party proceedings to prevent any further costs against the Council.

24. The recommended settlement figure aligns with the Council's appointed external surveyor, LSH's opinion of the open market rent. Therefore, their advice is to accept the Calderbank offer to avoid further unnecessary costs.
25. The alternative option, having exhausted the negotiations, is allowing the rent to be determined by the Independent Expert. The third-party process provides for the landlord and tenant's agent to submit their opinion of rent based on rental evidence. However, the independent expert ultimately draws their own expert conclusion. Following determination, RICS guidelines dictate this would be binding.
26. It is a possibility the Landlord may withdraw the Calderbank offer and proceed with the third-party determination regardless. If either party request the Independent Expert to proceed, he has a duty to do so. Therefore, the Council would have no option but to make their own representations to the Independent Expert via Lambert Smith Hampton. It is therefore recommended the Director of Property has delegated authority to engage in the referral to the Independent Expert process.

27-29 See Part II

Relevance to Council Plans and Strategies

30. Priority 1 – Clean and Green Places. The ongoing running of this property facilitates clean spaces for the whole borough because our waste teams operate from this location and provide services to the whole Borough.
- 31 Priority 2 – Strong, Healthy and Safe Communities. This location facilitates strong, healthy and safe communities though ensuring clean and safe roads throughout the borough and ensuring timely waste collection.
32. Priority 3 – Thriving Children and Young People. This location houses the passenger transport service, which facilitates safe transport of children and young people across the borough including SEND transport.
33. Priority 5 - An Economy that works for everyone. This report represents the best value for this contractually obligated rent review and will prevent further third party expenditure by proceeding to third party. It also secures the future of the site now, rather than risking a higher rental figure being set by third party determination.

Financial Implications

34-38. See part II

Legal Implications

32. The Council is a tenant of the Morson Road Depot pursuant to a Lease granted to it and dated 8th July 2013. The rent payable by the Council under the terms of the Lease is subject to review provisions contained within it as referred to in the body of this report.

33. The Calderbank offer referred to in this report and discussed in the confidential Part II report is an offer from the Council's Landlord made on a 'without prejudice save as to costs' basis setting out a rent level at which it is prepared to settle on but would not be bound by should the rent review need to be settled by way of referral to an Independent Expert. Should the Independent Expert determination an annual rent at a level contained within the Landlord's Calderbank offer or higher, the Landlord could seek to rely on the Calderbank offer in seeking to recover its costs from the Council.

Legal implications provided by JH (Legal) based on version of report circulated on 27.2.24

Equalities Implications

34. N/A

HR and Workforce Implications

35. -36. See Part II

Property Implications

37. The property implications of the proposed rent review settlement are set out in the main body of this report with more detail in the accompanying Confidential Appendix.

Other Implications

38. The increased rent facilitates a strategic approach to mitigate ongoing costs of this lease. Please see accompanying Confidential Report.

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Appendices

- See Confidential Part II and Confidential Appendices.

Background Papers

- Lease dated 8th July 2013 of Land and Buildings at 7 Morson Road, Ponders End, Enfield EN3 4NQ between J Murphy & Sons Limited and London Borough of Enfield.
- Key Decision 3486 – Depot Relocation

Departmental reference number, if relevant:

