

NON EXEMPT

EAST HAMPSHIRE DISTRICT COUNCIL

Audit Committee

24th June 2020

**Woolmer Trading Estate – Unit 47
Head of Neighbourhood Support**

FOR DECISION

Portfolio: Portfolio Holder for Property; Cllr Costigan

Director: Regeneration & Place: Simon Jenkins

Key Decision: No

Report No: EHCL/019/2020

1.0 Purpose of Report

1.1. This report sets out the history and current position relating to a lease held by Squires Kitchen Sugarcraft Ltd for Unit 47 at Woolmer Trading Estate in Bordon. The purpose of the report is to provide the Audit Committee with an update as to what actions are now in place to improve and build on current systems and processes to ensure they are robust and fit for purpose going forward.

2.0 Recommendation

Audit Committee is recommended to:

- 2.1. In accordance with this Committee's approved Terms of Reference, agree the corrective steps that have now been but in place and confirm that they are sufficient to deal with the issues raised.
- 2.2. To make a referral to Cabinet to write of the total debt of £172,178.25

3.0 Executive Summary

3.1. Unit 47 on the Woolmer Trading Estate was let to Squires Kitchen Sugarcraft Ltd (Squires) from 2012 until January 2020. During the period, starting at the letting of the property, there is evidence to show that the way in which this was managed has been ineffective; expertise and appropriate levels of experience within the team was lacking, leadership was inconsistent, as there had been various changes over time, and robust policies were not in place.

3.2. Further to recovery action being instigated in 2019, an investigation was commissioned in August of the same year. This report details the

findings from that investigation and puts forward recommendations to ensure that these circumstances will not be replicated in the future.

3.3. In January 2019 CIPFA was commissioned to undertake an audit of the Property and Estates teams across both East Hampshire District and Havant Borough Councils. The CIPFA audit identified recommendations which can be viewed in Appendix A.

3.4. In response to the outcome of the investigation and the CIPFA audit recommendations, a service review is underway. This includes but is not limited to:

- a.** developing and delivering a new team structure - recently gained approval from the Executive Board.
- b.** processes and procedures are being reviewed and updated
- c.** an IT Data Management System will be procured - to ensure that data is held in one central location, is accurate and up to date.

4.0 Additional Budgetary Implications

4.1. The lease held by Squires has now ceased. The current financial position is that the total debt owed by the company is £172,178.25. This consists of both the balance on the rent account and outstanding balance on the Business Rates account.

| Property Debt | Business Rates Debt |
|---------------|---------------------|
| £98,391.53 | £73,786.72 |

4.2. In accordance with the Company Voluntary Arrangement effective from June 2019, *“the arrangement shall not be capable of successful completion until all unsecured non-preferential creditors claiming in the arrangement have received a minimum dividend of 26.1 pence in the pounds.”*

4.3. This situation has since moved on. At the end of February, EHDC received notification to confirm that Squires is now in administration and is no longer able to trade. Consequently, the company can no longer meet any payments proposed under the CVA. Therefore, any recourse will effectively be limited.

5.0 Background and relationship to the Corporate Strategy and Directorate Business Plan/s

5.1. Context

Located to the south of the town centre, Woolmer Trading Estate is Bordon’s principal industrial area. The estate offers a range of units

available for letting and can accommodate most light industrial, general industrial and warehousing uses.

The trading estate comprises 46 units, with the freehold owned by East Hampshire District Council (EHDC). Currently, there are four units vacant. The rental income from the trading estate for 2019/2020 was circa £1m. This contributes to the wider corporate aim of financial sustainability and through effective asset management and monitoring, it provides potential to seek further performance improvement and asset enhancement.

5.2. Woolmer Trading Estate - Unit 47

In 2009 EHDC acquired Unit 47 to add to its' existing portfolio. The purpose of the acquisition at the time was not intended to be as a property investment. Bordon was on the cusp of major redevelopment and it was anticipated that a relief road could be built through Woolmer Way, so the acquisition was considered as a means to control this strip of land.

This unit is the largest that exists within the Council's portfolio on Woolmer Trading Estate. The rental income is circa £140,000 per annum. Initially the unit was let to a local charity, however, in 2012 it became vacant and available to re-let. The unit was difficult to let; the market at that time was slow, and in addition the premises required roof repairs estimated at £150,000. There are indications on file that suggest that there was a sense of urgency to let the unit in order for EHDC to avoid Business Rates (circa £50,000).

An existing tenant, Squires, was renting smaller units on Woolmer Trading Estate and expressed an interest in relocating to Unit 47, at that time the company were looking to expand their business. By relocating to the larger unit, it would provide an opportunity to EHDC to re-let the smaller premises vacated as a result.

The proposed letting of Unit 47 to Squires was the subject of an Exempt Cabinet report in November 2012 (Appendix G). The purpose of the report was (i) to gain approval to let the premises on the proposed Head of Terms (as set out in the Cabinet paper), and (ii) to allow appropriate delegation to the portfolio holder to agree any amendments following any further negotiation. Both recommendations received approval. The Head of Terms provides details of the initial rent-free periods

During the tenancy period there is a lack of clarity regarding the position of the rent account as the records are not complete. Following action to serve Statutory Notices to Squires for non payment of rent, an investigation was commissioned in August 2019. The purpose of the investigation was two-fold;

- to recommend actions to ensure that these circumstances could not be replicated, and
- to determine whether officers acted correctly to mitigate the potential loss of rent and protect the possession of the premises

A copy of the investigation report can be found at Appendix B. This is an exempt item.

In addition to non-payment of rent, Squires did not maintain regular Business Rates payments within the financial year that they were due. Each time payments fell behind recovery action was taken and payment plans were put in place to settle the debt. Recovery action commenced in December 2018 when the payment plan was not adhered to. Squires' Direct Debit was reinstated in January 2019, at this stage recovery proceedings were ceased and a new payment plan was agreed. This new arrangement was met until March 2019.

No further non-statutory payment plans were put in place. As at 31st March 2019 Squires owed £21,462 Business Rates for 2018/19. Recovery action recommenced for 2018/19 in May 2019 and in the same month recovery action was started for 2019/20 debt as the Direct Debit had been returned unpaid.

Recovery action had to cease when the company went into 'Voluntary Arrangement'. The outstanding debt for 2019/20 is £52,324.72.

5.3. Investigation Outcomes

a. Robust Governance

The investigation identified that there was a lack of robust governance in place due to an absence of processes and procedures when letting a property. Squires failed credit checks and were unable to provide a full deposit at the time of securing the lease in 2012, yet the largest premises on this estate was let to this company. Had a clear vetting process been in place, future issues regarding non-payment of rent could potentially have been avoided. In response to this, a credit check procedure for prospective tenants has since been developed and implemented.

The lack of clarity regarding the rent account position created an issue whereby an understanding of the rent arrears status at any given time was absent. This was further hampered by payments being slow to reach the account and could be misallocated. In addition, the investigation found that there was no Property Service Debt Recovery Policy specifically in place. The absence of accurate, up to date account information resulted in any potential recovery action being delayed. A Debt Recovery Policy

for the Property Service has since been developed and implemented.

Recovery action taken by the Council against Squires was initiated in May 2017 and again in September 2018, on both occasions this was withdrawn soon after. The decision to take immediate steps to recover the debts was taken in March 2019 and Statutory Notices were sent in April 2019; as Squires had raised the possibility of entering into a Company Voluntary Arrangement (CVA) to the Council during the same period. Officers within Property Services and Legal Services delayed acting on this advice as there was a lack of knowledge and experience within the departments. This delay allowed a CVA to be sought resulting in the need for expert insolvency advice and further court proceedings which increased the costs to the council.

5.3.2 Leadership & Strategic Direction

Whilst there is evidence to demonstrate a lack of robust governance arrangements being in place to effectively deliver within Property Services, it is also relevant to discuss the matter of a lack of consistent leadership and strategic direction within the team. Since 2016, when the current structure was introduced, there have been various arrangements in place to provide support and leadership to the team. EHDC experienced difficulties in recruiting to the Head of Service post, and as a result, arrangements put in place were temporary in their nature. It could also be debated that the emphasis for each interim manager was increasingly to focus on the investment portfolio for the Council, with less attention being placed on estates management. Since 2017 there have been nine Service Managers or Heads of Service leading the service.

In summary, under these circumstances it would be difficult to provide consistent leadership, appropriate line management and the need to offer the support and advice that the team clearly required. It should also be noted that the Council experienced periods of Interim Heads of Service (and vacant periods) in Legal and Finance as well as Property Services, which in turn only serves to exacerbate these matters further.

5.3.3 Officer Conduct

Further outcomes from the investigation can be viewed at Appendix C. This is an exempt item.

6.0 Options considered and reasons for the recommendation

6.1. The investigation identified various recommendations:

- Introduction of robust case management for Property
- Effective use of the existing case management system for Legal
- Improvements in response times between services (Legal / Property)
- Provision of consistent and appropriate leadership to the team
- Introduce robust policies and procedures to include:
 - Vetting process for new tenants
 - Rent management process
 - Debt Recovery Policy
- Improvements to accounting information to increase confidence in data held
- Development of an Asset Management Strategy / Plan which details the rationale for holding each asset.

An Action Plan has been developed in response to the recommendations set out above. The Action Plan can be found at Appendix D.

Appendix D forms part of the wider Action Plan that has been developed to address the priority recommendations as identified by the CIPFA audit. This can be found at Appendix E.

7.0 Resource Implications

7.1. Financial Implications

7.2. Appendix F provides a full financial disclosure statement. Table A within the appendix sets out the total amount due over the ten year lease period, which includes tenancy rentals, rent free periods and other associated costs. Table B sets out the total amount due over the actual tenancy period, ending in January 2020 and the actual amount received over the course of the tenancy. The difference between the two is £152,170.94 This differs from the total amount of debt as detailed in section 4, as it takes into consideration rent reviews which were not implemented during the tenancy. Appendix F also features additional financial analysis which provides the actual loss to the council by incorporating the rent that was waived during the tenancy.

7.3. Human Resources Implications

Property Services in its' current form is not fit for purpose. A Service Review is already underway to re-design and resource the team effectively, so that it can respond to the Investment Strategy, Asset Management and Estates Management across the district effectively.

A proposed structure has been approved by Executive Board and further work is being undertaken to develop and re-shape the roles contained within. Recruitment to the new structure will commence once all roles have been fully evaluated.

7.4. Information Governance Implications

The outcome from the investigation provides clear direction in terms of areas of governance that need to be addressed to ensure that these circumstances are not repeated.

As part of the Service Review, processes, procedures and policies will be reviewed and developed to promote and adopt a robust way forward for the organisation

7.5. Other Resource Implication. None.

8.0 Legal Implications

8.1 Appendix F identifies the value of the original rent payments against the rent received and includes the costs incurred through legal process proceedings.

9.0 Risks

9.1. A number of recommendations have been put forward as a result of the investigation. These are captured above at 6.1, and in the subsequent action plan set out at Appendix A.

Should these actions not be considered and taken forward or the Service Review not be delivered, the associated risks are considerable. Poor management of leases, whether that be due to capacity issues or lack of expertise, could result in more than just escalating rent arrears. As a landlord we also have a statutory requirement to comply with Health and Safety, therefore the risks are not only financial, but perhaps more significantly, the result could be reputational damage.

It is worthy to note that negotiations are currently underway with a prospective tenant for Unit 47. Due diligence in the form of seeking confirmation of credit worthiness, analysis of three years' worth of the trading company's accounts and reviewing Business Plans as an example, will be undertaken as part of the process. This should provide the confidence to commence a new tenancy with a new tenant from a positive starting point. Moreover, if the property is shortly let, the council will have offset the loss from the early termination of the lease by Squires, albeit the council will have incurred additional administrative costs.

10.0 Appendices:

- 10.1. Appendix A – CIPFA Audit Recommendations Report
- 10.2. Appendix B – Exempt item: Investigation Report
- 10.3. Appendix C - Exempt item: Investigation Outcomes
- 10.4. Appendix D – Investigation Outcomes: Action Plan
- 10.5. Appendix E – CIPFA Recommendations: Action Plan
- 10.6. Appendix F – Financial Summary

10.7 Appendix G - Exempt item: Cabinet Report – Letting at Woolmer Trading Estate, Bordon – 7th November 2012

11.0 Background Papers: None

Agreed and signed off by:

Monitoring Officer: (date)

S151 Officer: date

Director: (date)

Portfolio Holder: (date)

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