

7. PROPOSED LEASE OF LAND NORTH OF MAPLE DRIVE, BURGESS HILL

REPORT OF: Peter Stuart, Head of Corporate Resources
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Wards Affected: Burgess Hill
Key Decision: Yes
Report to: Cabinet

Purpose of Report

1. The purpose of the report is to brief the Cabinet on the provisional terms that have been agreed for a proposed lease of an area of land shown edged in red in the attached plan, ('the Property'), and to seek authority to enter into an agreement for the construction of a community church on the Property and the subsequent grant of a lease of the Property to The Trustees of Sheddingdean Baptist Church on the terms set out in this report. The report also considers the outcome of advertising the proposed lease in accordance with Section 123 of the Local Government Act 1972.

Recommendations

2. **The Cabinet is recommended to:**
 - (a) **Note the contents of this report; and**
 - (b) **Authorise the grant of an agreement for a building lease for three years of the land at Maple Drive, Burgess Hill, to The Trustees of Sheddingdean Baptist Church, followed by, on practical completion of the building a lease for a period of 135 years on the terms outlined below, and on such other terms and conditions as the Solicitor and Head of Regulatory Services to the Council may recommend to protect the Council's position.**
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Background

3. The Council owns a parcel of land, which is currently open space, north of Maple Drive, Burgess Hill, which is shown edged in red on the attached Location Plan at Appendix 2, which parcel of land comprises approx. 0.39 Ha.
4. In 2014, the Council was approached by the Trustees of Sheddingdean Baptist Church, ('**the Church**') who had a vision to harmonise the relationship between the church and the local community within Burgess Hill. The Church operated various charitable and community services at the Sheddingdean Community Centre, which is also Council-owned, but also occupied by various groups including the Windmills Playgroup.
5. The Church currently operates from the Sheddingdean Primary School on weekends which is located directly opposite the Community Centre and has been in the Sheddingdean area for the over 17 years. The Church has developed other initiatives such as the mother and toddler group, serving the local community and operate from the Community Centre, which is not large enough and creates a pressure on other users.
6. The Church wants its own space which would allow it to increase the services and activities without affecting the other users at the Community centre, and the land off Maple Drive was identified as potentially suitable provided the Church carried out its

own independent investigations and site surveys, and submitted a planning application for a development of a church and community facility.

7. Officers have been working with the Church over the past few years to develop a suitable scheme and the planning application was submitted, and is pending resolution. The Church wish to start the marketing and media campaign to apply for grant funding as well as loans required for facilitating and completing the building, however, most funding agreements require the applicant to have a legal interest in the land, i.e. security of tenure.
8. The proposed site of the Church forms part of a Recreation Ground and therefore, constitutes public open space, and the Council is therefore, required to comply with Section 123 of the Local Government Act 1972 by advertising the Council's intention to grant the proposed lease for two consecutive weeks in a local newspaper inviting members of the public who may oppose or object to such a disposal to make their views know and for the Council to consider such objections before deciding whether or not to grant the proposed lease. The Council advertised its intention to grant the proposed lease on 6th and 13th April 2017, and no objections to the proposed lease were received by the date specified in the notice. The Council is therefore, free to proceed with the proposed lease on the terms outlined in this report.
9. Part of the proposed site of the Church is used by Burgess Hill Town Football Club on match days as overspill car parking to relieve pressure on local roads, which was the cause of complaint to the Council and hostility between the Club and local residents.. When the current lease to the football club was granted the Council was aware of these proposals and provisions to determine the rights granted to the football club were included in their lease, so that Council is able to discontinue their use. However, removing these rights permanently is likely to cause a re-emergence of the issues that existed before the overspill car parking was provided and it is understood that the Church are willing to accommodate the Club on match days and it is proposed that the proposed lease be granted subject to the rights of the Club and that the rights are merely suspended during construction, to minimise the impact.
10. A summary of the main terms and conditions of the proposed lease, which have been agreed with the prospective tenant, is attached at Appendix I for reference.

Policy Context

11. The grant of the lease supports the Council's Vision for a better and safer Mid-Sussex by enabling the Church to enhance the regeneration of waste land at Maple Drive through the development of a church and community facility.

Other Options Considered

12. The alternative is to not grant the lease and look for an alternative use for this contaminated site. The Council would retain responsibility for managing the site and all liability for the site.

Financial Implications

13. The grant of a lease will generate a rental income of £4,000 excluding VAT from the date of Practical Completion, which will be credited to the Council's Property Investment Account.
14. The Council will also recover the cost of professional fees as detailed in Appendix I.

Risk Management Implications

15. The proposed terms as agreed transfer all repair, maintenance and insurance liabilities of this site onto the tenant. The development will not commence until the Council is satisfied that the Church is in possession of enough funds required to complete the project, as otherwise the Council may be left with an incomplete building on its land.

Equality and Customer Service Implications

16. No implications.

Background Papers

17. None

APPENDIX I – SUMMARY OF AGREED TERMS AND CONDITIONS

- **Tenant:** The Trustees of Sheddingdean Baptist Church (Chair, Secretary and Treasurer), Registered Charity No. 1168341, c/o Sheddingdean Baptist Church Manse, 31 Chesnut Close, Burgess Hill, RH15 8HN
- **Guarantor/Surety:** Baptist Union Corporation Limited, PO Box 44, 129 Broadway, Didcot, Oxfordshire OX11 8RT
- **Landlord:** Mid Sussex District Council, Oaklands Road, Haywards Heath RH16 1SS
- **Building Agreement:** a term of 3 years from exchange contracts for an Agreement for Lease.
- **Lease Term:** 135 years, to commence from and including the Practical Completion Date
- **Initial Rent:** £4,000 p.a. (excluding VAT) payable, quarterly in advance
- **Rent Commencement Date:** 2 years after Practical Completion of the building.
- **Rent review:** the rent is to be reviewed every 5 years from Practical Completion, in an upwards only fashion to market rent, by assessing the appropriate rack rental for office buildings in and around the Sheddingdean area and taking 10% of this to represent the ground rent payable under the lease.
- **Other Conditions:** Following exchange of contracts, the Tenant will be allowed a maximum period of:
 - o 3 years to secure all funding required to complete the building, and to implement all the necessary planning conditions to the satisfaction of the Council as the statutory Planning Authority,
 - o 2 years to build and complete the building and achieve practical completion, to the satisfaction of the Council as the statutory Building Control Authority.
 - o If these conditions are not met, the Council reserves the right to terminate this building agreement at no cost to the Tenant.
- **Tenant works:** erection of a new church and community facility including all external ground works forming car, motor and pedal cycle parking and associated hard and soft landscaping in accordance with the plans approved by the Planning Authority under application number 14/03505/FUL
- **Tenant Outgoings:** the Tenant to pay business rates and all outgoings once the building is completed.
- **Repairs:** Tenant responsible for fully repairing and insuring the property in the joint names of the Tenant and Council, as is standard practice.
- **Assignment / Subletting:** the tenant may assign the lease with the Council's consent not be unreasonably withheld, provided in the sole opinion of the Council, the assignee is (i) an appropriate body which will continue to operate the property as a church and community facility, and that (ii) it has sufficient financial status to fulfil the obligations of the lease.
- **Contracting Out:** the lease will not be contracted out of Part 2 of the Landlord and Tenant Act 1954.

- **Use:** The Tenant must use the premises other than a Church and Community Building, and for no other uses without the prior written consent of the Council as Landlord.
- **Contamination:** the tenant will comply with all the requirements of the Environmental Agency in relation to any contamination and monitoring thereof existent on the site, and shall provide the Council with all appropriate reports to demonstrate compliance.
- **Indemnity and Third Party Insurance:** The tenant shall indemnify the Council from and against all damages, loss, expense, liability and costs in respect of all actions, suits and demands by reason of or arising in any way directly out of the repair, state of repair, condition or existence of the site of breach of the Building Agreement, and shall effect Public Liability Insurance in the sum of £5m.
- **Legal Fees and Costs:** The tenant has agreed, as is standard practice for leases of this nature, to pay the following costs:
 - o The Council's legal cost of £1,000 + vat,
 - o The Council's Surveyor's cost of £500 + vat,
 - o The Council's advertising costs circa £600 (in accordance with s123 of the Local Government Act 1972),
 - o The cost of Registration and any Stamp Duty relating to the transaction.

APPENDIX II – LOCATION PLAN

