

Forward Plan reference number: Not applicable

Report title: Shire Hall, Chelmsford - extension of time for Agreement for Lease	
Report to: Councillor Tony Ball - Cabinet Member for Economic Development	
Report author: Paul Crick – Director, Capital Delivery	
Date: 25 th January 2021	For: Decision
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County Divisions affected: Chelmsford Central	

Confidential Appendix

This report has a confidential appendix which is not for publication as it includes exempt information falling within paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

1. Purpose of Report

To report that the longstop date within the current Agreement for Lease between Essex County Council (ECC) and Aquila Management LLP for Shire Hall, Chelmsford ('the Site') will expire before Aquila are able to secure a suitable planning consent in accordance with the Agreement for Lease and to recommend that an extension of time be agreed to enable all the conditions of the Agreement to be met and for completion of the proposed lease to take place.

2. Recommendations

- 2.1 That a further six month period be added to the longstop date for the Agreement for Lease to run until 21 August 2021
- 2.2 That all other terms and conditions within the Agreement for Lease remain the same

3. Summary of issue

- 3.1 On 31st January 2018, a decision (FP/071/02/18) was taken to enter into a conditional Agreement for Lease with Aquila Management LLP and the Agreement for Lease was exchanged on 21st February 2018. The Agreement contained a final longstop date of 21st February 2021 by which time the conditions within the Agreement for Lease should be discharged and the Lease would be completed.
- 3.2 Those conditions included securing planning permission for alterations and uses which were permitted under the Agreement for Lease. Aquila have not

been able to secure a planning consent due to the requirements of achieving Listed Building Consent and it is apparent that they will now be unable to do so before the longstop date. Aquila have requested an extension of the final long stop date in the Agreement to Lease in order to secure an appropriate planning consent from Chelmsford City Council.

- 3.3 A consultation exercise and market testing in 2016 were conducted prior to the decision to enter into the Agreement for Lease with Aquila. That exercise identified a range of proposals for various uses including retail, leisure and community purposes. The outcome of that process was considered in the decision to enter into the current Agreement for Lease.
- 3.4 There have been a number of discussions around the present Agreement and future options between Aquila, Chelmsford City Council, ECC and other interested parties. No credible alternative to the current arrangement in terms of financial viability has been identified at the present time and ECC's retained professional surveyors confirm this is the best value transaction that is likely to be forthcoming to ECC.

4. Options

- 4.1 To allow the Agreement for Lease to determine through effluxion of time. ECC would need to consider a range of future options for Shire Hall and to undertake further public consultation on any approach that was not previously considered. The cost of holding and maintaining the building would remain with ECC. Any cost of alterations or refurbishment would need to be identified.
- 4.2 To bring the building back into use for ECC purposes. There is no identified ECC function that is currently considered appropriate to operate from Shire Hall and there would be considerable cost in bringing the building back into operation. In addition, Shire Hall is currently exempt from Business Rates as a vacant Listed Building and this cost would arise once the building is put back into use.
- 4.3 To agree an extension of time to the Agreement for Lease (recommended). This would retain the benefit of the premium payable to ECC and if seen to completion will remove future running costs and liabilities from the public sector.

5. Next Steps

If this decision is approved, Essex Legal Services will be instructed to proceed with a supplemental agreement to vary the final long stop date in the Agreement for Lease

6. Issues for consideration

6.1. Financial Implications

- 6.1.1. The book value of the Site on the 13th April 2020 is stated in the attached confidential appendix and the proposed consideration is greater than this value.
- 6.1.2. The proposal would have no impact on the current cost of holding the Site other than any maintenance liability that may arise during the extension to the Agreement for Lease.
- 6.1.3. The decision would protect the receipt (premium) within the Agreement for Lease which will contribute to the capital receipts targets and may be used to reduce ECC's borrowing requirements.
- 6.1.4. The costs of disposal will be met from existing specific budgeted resources earmarked for capital disposal activity.

6.2 Legal implications

The Agreement for Lease provides for an extension of the initial longstop date to 21st February 2021 and if that date isn't extended then either party can give written notice to the other if the conditions set out in the Agreement haven't been satisfied. In the event that a decision is made to extend that longstop date by six months then it will provide the benefit of a further six month period during which Aquila will be bound by the terms of the Agreement for Lease as already entered into. A formal extension document is proposed.

7. Equality and Diversity implications

- 7.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
 - (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

- 7.3 The equality impact assessment carried out on 05/01/2021 indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

8. List of appendices

- Confidential Appendix
- Equalities Impact Assessment

9. List of Background papers

I approve the above recommendations set out above for the reasons set out in the report.	Date 26/01/21
Councillor Tony Ball Cabinet Member for Economic Growth	

In consultation with:

Role	Date
s151 officer	11/01/2021
Stephanie Mitchener on behalf of Nicole Wood	
Director, Legal and Assurance (Monitoring Officer)	22/01/2021
Jacqueline Millward on behalf of Paul Turner	