

EXECUTIVE DECISION

made by a Cabinet Member




REPORT OF ACTION TAKEN UNDER DELEGATED AUTHORITY BY AN INDIVIDUAL CABINET MEMBER

Executive Decision Reference Number – L46 20/21

| Decision | |
|----------|---|
| 1 | Title of decision: 8 Grand Parade Lease Extension |
| 2 | Decision maker (Cabinet Member): Leader of Plymouth City Council, Councillor Tudor Evans |
| 3 | Report author and contact details: James Watt, Head of Land Property, Economic Development - 01752 30 james.watt@plymouth.gov.uk |
| 4 | Decision to be taken: It is recommended that the Leader of the Council: Approves the grant of a long lease of 8 Grand Parade to 8 Grand Parade Management Company Limited Approves the grant of statutory renewal leases under section 39 Leasehold Reform Housing and Urban Development Act 1993 to individual tenants of the flats within 8 Grand Parade |
| 5 | Reasons for decision: The Council owns the freehold of the property at 8 Grand Parade. 8 Grand Parade Management Company Limited (“the Management Company”) have a long lease from the Council which is due to expire on 18 February 2112 with an option to renew. The Management Company granted leases of the individual flats for terms commencing on 18 February 1987 and expiring on 17 February 2112. The tenants of individual flats have a statutory right to renew their leases under section 39 Leasehold Reform Housing and Urban Development Act 1993 (“the 1993 Act”) for terms of 90 years from lease expiry. Without the lease extension the Management Company will not be able to grant the statutory lease renewals as its lease is due to expire and it would not have a legal interest in the property to grant to the tenants. If the lease to the Management Company cannot be completed before the date under which the tenant of the individual flat is entitled to the new lease then the Council will need to grant the statutory renewal leases directly to the individual tenants of the flats. |
| 6 | Alternative options considered and rejected: |

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|-------------------------|---|------------|--|--|
| | If the Council does not grant the new lease to the Management Company then it will have to grant statutory lease extensions to the tenants of individual flats. As these are statutory renewals the Council would not benefit financially and it would be an administrative burden. | | | |
| 7 | Financial implications: None – the existing lease is at a peppercorn rent and the new lease will also be at a peppercorn rent Under the terms of the 1993 Act the rent payable under the statutory renewal leases is a peppercorn. | | | |
| 8 | Is the decision a Key Decision? (please contact Democratic Support for further advice) | Yes | No | Per the Constitution, a key decision is one which: |
| | | | X | in the case of capital projects and contract awards, results in a new commitment to spend and/or save in excess of £3million in total |
| | | | X | in the case of revenue projects when the decision involves entering into new commitments and/or making new savings in excess of £1million |
| | | | X | is significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority. |
| | If yes, date of publication of the notice in the Forward Plan of Key Decisions | | | |
| 9 | Please specify how this decision is linked to the Council's corporate plan/Plymouth Plan and/or the policy framework and/or the revenue/capital budget: | | This is a statutory requirement for the Council. | |
| 10 | Please specify any direct environmental implications of the decision (carbon impact) | | No implications. | |
| Urgent decisions | | | | |
| 11 | Is the decision urgent and to be implemented immediately in the interests of the Council or the public? | Yes | | (If yes, please contact Democratic Support (democraticsupport@plymouth.gov.uk) for advice) |
| | | No | X | (If no, go to section 13a) |
| 12a | Reason for urgency: | | | |
| 12b | Scrutiny Chair Signature: | | Date | |

| | | | |
|--|--|---|--|
| Scrutiny Committee name: | | | |
| Print Name: | | | |
| Consultation | | | |
| I3a | Are any other Cabinet members' portfolios affected by the decision? | Yes | |
| | | No | x (If no go to section I4) |
| I3b | Which other Cabinet member's portfolio is affected by the decision? | | |
| I3c | Date Cabinet member consulted | | |
| I4 | Has any Cabinet member declared a conflict of interest in relation to the decision? | Yes | If yes, please discuss with the Monitoring Officer |
| | | No | X |
| I5 | Which Corporate Management Team member has been consulted? | Name | Anthony Payne |
| | | Job title | Strategic Director for Place |
| | | Date consulted | 11/03/21 |
| Sign-off | | | |
| I6 | Sign off codes from the relevant departments consulted: | Democratic Support (mandatory) | DS117 20/21 |
| | | Finance (mandatory) | pl.20.21.273 |
| | | Legal (mandatory) | 36283/AC/11/3/21 |
| | | Human Resources (if applicable) | |
| | | Corporate property (if applicable) | |
| | | Procurement (if applicable) | |
| Appendices | | | |
| I7 | Ref. | Title of appendix | |
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| Confidential/exempt information | | | |

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| 18a | Do you need to include any confidential/exempt information? | Yes | | If yes, prepare a second, confidential ('Part II') briefing report and indicate why it is not for publication by virtue of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box in 18b below. (Keep as much information as possible in the briefing report that will be in the public domain) | | | | |
| | | No | X | | | | | |
| | | Exemption Paragraph Number | | | | | | |
| | | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 18b | Confidential/exempt briefing report title: | | | | | | | |
| Background Papers | | | | | | | | |
| 19 | Please list all unpublished, background papers relevant to the decision in the table below. Background papers are <u>unpublished</u> works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based. If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box. | | | | | | | |
| Title of background paper(s) | | Exemption Paragraph Number | | | | | | |
| | | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
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| Cabinet Member Signature | | | | | | | | |
| 20 | I agree the decision and confirm that it is not contrary to the Council's policy and budget framework, Corporate Plan or Budget. In taking this decision I have given due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not. For further details please see the EIA attached. | | | | | | | |
| Signature |  | | Date of decision | 15 March 2021 | | | | |
| Print Name | Cllr Tudor Evans OBE, Leader | | | | | | | |

Introduction

1. The Council owns the freehold of 8 Grand Parade which comprises a block of flats and a two storey car park (“the Property”).
2. The Council granted a lease of the building and the first floor deck of the car park on 9 March 1987 to Bristol and West Housing Association Limited for a term of 125 years at a peppercorn rent (“the Lease”).
3. The Lease contained a right to renew at the end of the current term i.e. in 2112 for an additional term of 125 years on the same terms.
4. The Lease has been assigned to 8 Grand Parade Management Company Limited (“the Management Company”).
5. The Management Company or its predecessor granted leases of the individual flats at the Property for terms of 125 years less one day to the tenants (“the Tenants”).

Current Issue

6. One of the Tenants of the flats has submitted a notice of claim to exercise their right under section 39 of the 1993 Act.
7. Section 39 of the 1993 Act enables a qualifying tenant to request an extension to their lease for an additional 90 years on top of their remaining lease term, and the reduction of their ground rent to a peppercorn.
8. As the Management Company only has 91 years left on the Lease it is unable to grant the statutory lease renewal directly to the Tenants as they would need a term of at least 181 years to be able to grant the statutory lease renewal.
9. The Council has no day to day management of the Property and it would complicate matters if it started to grant leases directly to the Tenants.

Solution

10. As the Management Company would be entitled to a new lease for a term of 125 years at the end of the existing term of the Lease the Council proposes to grant a new lease to the Management Company now for a term of the residue of the existing term plus the additional 125 years. This would give the Management Company a lease term of 226 years.
11. This would then enable the Management Company to deal with all statutory lease extension requests from the Tenants.
12. However, there is a time limit for the statutory renewals and in the event that the lease to the Management Company cannot be completed urgently then the Council may have to grant the statutory renewal lease directly to the Tenant.
13. The terms of the statutory renewal leases are set out in the 1993 Act.