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| REPORT TO: | Policy Development Panel |
| DATE: | 28 February 2023 |
| SUBJECT: | Industrial Units Letting Policy |
| PURPOSE: | To inform of the update to the policy on letting of the industrial units within SHDC |
| KEY DECISION: | No |
| PORTFOLIO HOLDER: | Councillor Grocock |
| REPORT OF: | Assistant Director - General Fund Assets |
| REPORT AUTHOR: | Natasha Dawson |
| WARD(S) AFFECTED: | All |
| EXEMPT REPORT? | NO |

SUMMARY

This revision is to update the industrial units letting policy that was previously approved by SHDC in September 2020 this also encompasses the change in planning legislation from September 2022. The aim of this revision is to ensure we have more flexibility with new tenants before granting a longer lease to them.

Amended provisions include updates to the service charge, Tenancy At Will, inclusion of the waiting list, an update to marketing and how we vet new applicants.

The one major change to the policy is the inclusion that the units can no longer be used for storage of any kind and must create employment either working from the unit or based on the use of the units.

RECOMMENDATIONS

The PDP review the amended policy and critique and comment on:

- *Key points*
- *Rent incentives*
- *Rent arrears*

REASONS FOR RECOMMENDATIONS

In following the recommendations the panel has the opportunity to have input in to the new policy.

OTHER OPTIONS CONSIDERED

NA

1. BACKGROUND

- 1.1** *SHDC have had a policy for the letting of the industrial units for a number of years. The policy has been reviewed and updated to add clarity in areas regarding the use of the units, planning legislation updates and service charges.*

2. REPORT

- 2.1 Appendix 1 presents the new Lettings Industrial Unit Policy.

3. CONCLUSION

- 3.1** *Giving feedback on the amended Industrial Units Policy Update will*

4. EXPECTED BENEFITS TO THE PARTNERSHIP

- 4.1 NA

5. IMPLICATIONS

5.1 SOUTH AND EAST LINCOLNSHIRE COUNCILS PARTNERSHIP

- 5.1.1 *None*

5.2 CORPORATE PRIORITIES

- 5.2.1 *Ensuring that we have units to assist local businesses and supporting the local economy.*

5.3 STAFFING

- 5.3.1 *None*

5.4 CONSTITUTIONAL AND LEGAL IMPLICATIONS

5.4.1 None

5.5 DATA PROTECTION

5.5.1 None

5.6 FINANCIAL

5.6.1 To enhance the councils portfolio and to increase revenue fairly across its estate.

5.7 RISK MANAGEMENT

5.7.1 Revising the policy to ensure it is up to date with current planning legislation.

5.8 STAKEHOLDER / CONSULTATION / TIMESCALES

5.8.1 None

5.9 REPUTATION

5.9.1 To support the councils reputation for prioritising new businesses and helping to promote employment.

5.10 CONTRACTS

5.10 Giving flexibility in the contracts offered to tenants.

5.11 CRIME AND DISORDER

5.11.1 none

5.12 EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING

5.12.1 none

5.13 HEALTH AND WELL BEING

5.13.1 none

5.14 CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

5.14.1 none

5.15 LINKS TO 12 MISSIONS IN THE LEVELLING UP WHITE PAPER

6. ACRONYMS

6.1 (Use this section to explain any acronyms used in the body of the report. If none, insert the word 'none'.)

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| APPENDICES | |
| Appendices are listed below and attached to the back of the report: - | |
| <i>APPENDIX A</i> | Letting and management of the South Holland District Council's commercial property assets |

BACKGROUND PAPERS

No background papers as defined in Section 100D of the Local Government Act 1972 were used in the production of this report.

CHRONOLOGICAL HISTORY OF THIS REPORT

'A report on this item has not been previously considered by a Council body

| Name of body | Date |
|---------------------|-------------|
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REPORT APPROVAL

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| Report author: | Natasha Dawson |
| Signed off by: | Marc Whelan |
| Approved for publication: | Councillor Grocock |

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| S151 Officer consulted on financial implications: | No |
| Monitoring Officer consulted on legal and constitutional implications: | No |
| Portfolio Holder consulted: | Yes |
| Ward Member consulted: | No |

Appendix A

February 2023

Letting and management of the South Holland District Council's commercial property assets

Replaces 2005 policy and update of September 2020

Executive Summary

This policy is to replace the letting and management of the Council's portfolio of industrial property adopted in 2005 and update of September 2020

Key Points

- The purpose of the industrial units is to encourage the growth of both new and existing local businesses in line with the council's Asset Management Strategy.
- The units are let mainly for light industrial use and tenants' businesses need to comply with all statutory requirements including the appropriate planning classification, as amended in September 2020
- Tenants can only use in line with the user classes act and the following amendment in 2020. The defined use of the Council's estates will fall under the E class g i, ii, iii may in some cases be permitted to apply to widen the planning use of a unit to F2 (b) local community use. A tenant must comply with the planning at all times. Tenants will not be permitted to narrow the planning classification of a unit for example to any other planning user class without written permission from the Council.
- Tenants must employ people to work in the units or from the units to promote the local economy. These units are no longer allowed to be storage units for any kind of materials. An absolute prohibition of dangerous substances and / or dangerous containers being stored in buildings or on the estate is in place from 2023
- Tenants will initially be granted a 'Tenancy at Will' for 6 months prior to allowing a new lease to be put in place. This is due to Covid and the volatility of the wider economy. It helps SHDC work with tenants who then find it difficult to pay rent and potentially leave themselves with a long lasting debt that can become an issue for a new or small business.
- The terms of new leases are determined by the Asset Management Team on commercial terms with the lease term to be subject to negotiation however ordinarily for a term of up to 6 years. This will enable the Council to let to new business's that are created within the local economy at periodic times
- When a long term lease is granted this policy will be supplied along with the new lease.
- A service charge is levied annually to cover the maintenance and repair of the common parts of the estate and the external parts of the units (but not exhaustively).

- Leases have an 'effective' full repairing and insuring liability. Tenants are responsible for internal repairs and for those elements not covered by the service charge.
- Ordinarily the landlord will be responsible for external repairs with the costs recharged to the tenant via the service charge.
- Statutory testing relating to internal FM to be the responsibility of the tenant statutory testing for external items to be the responsibility of the landlord with the costs recharged to the tenant via the service charge. Council to undertake normal pre let checks on vacating by tenant
- The council insures the buildings and recharges the tenants. Contents' insurance cover is the responsibility of the tenant.
- Rent, business rates, utilities' costs and any other related outgoings such as service charges are payable by the tenant.
- Leases are outside the provisions of the Landlord and Tenant 1954 Act, i.e. the tenants have no statutory renewal rights.
- Non-structural alterations are permitted subject to landlord's written consent (not to be unreasonably withheld). If relatively minor, a standard letter licence should be used to document alterations, alternatively the matter will be documented in a licence to alter or an approved SHDC letter from the Estates & Assets.
- Structural alterations will not be permitted and are prohibited
- Tenants will be permitted to assign leases subject to written landlord's consent.
- Subletting in whole or part is prohibited.
- Application forms may need to be completed by prospective tenants and their financial suitability tested. In the first instance, tenants waiting for a unit are added to the 'tenancy waiting list' to promote fairness.
- In the interests of good estate management, the Council will endeavour to rent units in order of waiting list entries but reserve the right to ensure a good mix of tenants is achieved for each estate by examining the tenant mix each time a unit becomes available
- Rent arrears are pursued in accordance with the Debt Recovery policy.

Marketing

In the first instance, the Estates Officer will try to let the vacant unit using the 'tenancy in waiting list' this will ensure that the Council operate and use internal resource to get best value for money. If a unit can't be let an external agents will be instructed to market the vacant unit or units. "To Let" boards may be erected and advertising undertaken on the Council's website and in the local media as necessary.

New Applicants

Where applicable, all applicants are asked to provide a bank reference and two trade references. Applicants, who have an existing business, are required to provide three years' audited accounts and a landlord's reference.

Tenants may be required to pay a rent deposit, equal to at least three months' rent, which will be held by the Council and used if the tenant defaults on rent, service charge (or other payment due) or to offset any dilapidations liability at lease expiry.

Rent and incentives

Rents are generally on an open market rent (ERV) basis. The rent levels are reviewed as specified in leases, but generally on a three-yearly review pattern. A small rent-free period, either as an incentive or in lieu of fit-out works can be granted by the Asset Management Team where appropriate.

Agreeing a new lease

A standard form of lease will be drawn up and will be replicated for each new letting so amendments can be kept to a minimum and legal work can be completed quickly and economically. It will be reviewed on a regular basis to ensure it reflects the most recent legislative changes, commercial practice and strategic aims of the Council.

Yield up

A schedule of dilapidations will be undertaken by the Council prior to the termination of the tenancy, outlining the items of disrepair the tenant is responsible for remedying.

Rent Arrears

The Council has a corporate Debt Policy and a Write-Off Policy which are complied with in dealing with tenant arrears. Management of tenant arrears includes the following:

- Liaising with Accounting Services and where appropriate agreeing a strict timetable for the repayment of arrears.
- Using Commercial Rent Arrears Recovery (CRAR). This legislation means that 7 days' notice needs to be served on the tenant prior to enforcement agents being instructed to distrain upon goods. CRAR only applies to principal rent, VAT and interest (it cannot be used to pursue unpaid service charges or rates).

Implementation and review

- The Asset Management Team is responsible for implementing this policy and for its regular review.
- The Council has the right to vary any of the above guidelines in line with their current strategic aims and legislation.

| Policy Approval | Reviewed by and Approved |
|--------------------------|---------------------------------|
| Policy Development Panel | February 2023 |
| Cabinet | |

Related Policies and Strategies

Asset Management Strategy

Corporate Debt Recovery Policy

Write-off Policy