

Agenda Item No:

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**Report of:** Land and Property

**Report to:** Director of City Development

**Date:** October 2018

**Subject:** Appointment of agent for letting of 3 Sovereign Square - CPR Waiver Report

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Hunslet & Riverside	
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:	10.4 (3)	
Appendix number:	1	

### Summary of main issues

1. Parts of 3 Sovereign Square remain vacant since the Council's acquisition of the building on 24 November 2016 despite active marketing having been undertaken.
2. The acquisition was accompanied by a Rental Guarantee Agreement under which the developer of the building was obliged, amongst other things, to appoint agents to market the vacant space in an attempt to secure tenants. The rental guarantee period will expire on 24 November 2018 and the Council must appoint agents to market the property.
3. It is recommended the agents appointed by the developer be appointed by the Council to ensure continuity of marketing and to benefit from the knowledge they have of the property. These will be direct appointments, rather than tendering the work to a number of agents.

### Recommendations

4. The Chief Officer Resources & Strategy is recommended to approve the waiver of the following contracts procedure rules to enable the Council to directly appoint agents Pudney Shuttleworth:

Contracts Procedure Rules nos 8.1 and 8.2 – Intermediate Value Procurements,

between £10,000 and £100,000.

## **1 Purpose of this report**

- 1.1 To seek agreement for a direct appointment of agents for the letting of 3 Sovereign Square waiving Contracts Procedure Rules 8.1 and 8.2, Intermediate Value Procurements.

## **2 Background Information**

- 2.1 The Council acquired 3 Sovereign Square on 24 November 2016 from developer 3 Sovereign Square LLP, a joint venture between Bruntwood and Kier. As the property was only partly let, the developer remained responsible for marketing to secure new lettings. This responsibility, amongst other things was documented in a Rental Guarantee Agreement exchanged by the Council and the developer.
- 2.2 At its own cost the developer appointed agents to market the vacant space (Pudney Shuttleworth and Pudney Shuttleworth for the office space; Pudney Shuttleworth and Pudney Shuttleworth for the retail / leisure space).
- 2.3 The Rental Guarantee Agreement expired on 24 November 2018 and the Council must appoint agents for the continued marketing of the vacant space (c.25,000sqft of offices, and a ground floor leisure unit of c.3,000sqft).

## **3 Main issues**

- 3.1 Terms have now been agreed for two lettings of the remaining vacant office space, but there is little interest in the ground floor leisure unit. For continuity it is proposed the Council appoints the agents with effect from 24 November 2018, and this is particularly important in relation to the two newly agreed office lettings to bring them to a conclusion.
- 3.2 The Council could tender the opportunity to other agents in Leeds, but there is no reason to question the current agents' involvement, it has been unfortunate the space hasn't let over the last two years.
- 3.3 Lettings completed after 24 November 2018 will be at the Council's expense. The agent's fee proposal is detailed in the accompanying confidential appendix. The proposal is the same as the original appointment made by the developer of 3 Sovereign Square. There will be benefits in appointing the same agent as they have an extremely good knowledge of the property. The appointment will be made on a joint agency basis, with a fee payable upon successful letting of the space. Marketing costs will be paid in addition to the fee. The performance of the agent will be closely monitored, and to ensure no conflicts of interest arise.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 No consultation has been undertaken

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 There are no issues relating to the proposals contained in this report.

### **4.3 Council Policies and the Best Council Plan**

- 4.3.1 The ambition for Leeds to have a strong economy and be a compassionate city is set out in the Best Council Plan. The proposal to achieve a swift and economic letting of the new property as set out in this report supports this ambition and the Council's Best Council Plan priorities around supporting economic growth and access to economic opportunities and the associated breakthrough projects on 'more job, better jobs,' 'strong communities benefiting from a strong city' and 'housing growth and high standards in all sectors.'
- 4.3.2 The ownership of the property supports the Best Council Plan ambition for the authority to continue to be an efficient and enterprising organisation by seeking to optimise the council's Investment Portfolio and by generating income to support the council's revenue budget. Once the property is fully let it will provide a net surplus income at a time when there is unprecedented pressure on the Council's revenue budget.

### **4.4 Resources and Value for Money**

- 4.4.1 The fee recommended for approval are typical of fees charged by agents for the type of work being undertaken. The appointment will be on the same basis as those by the developer under the Rental Guarantee Agreement. Fees are only payable upon successful letting of the space, and the appointment can be terminated at any time, however, a for a period of time following termination a fee will still be payable in the event of the space then being let to a party originally introduced by the agent.

### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 The Contracts Procedure Rules state that any decision to waive this rule by a Chief Officer will be in accordance with CPR27 which requires the completion of a Delegated Decision Notification following the receipt of a Waiver Report.
- 4.5.2 In addition the Contracts Procedure Rules state that a contract will only be offered where it represents best value. This report seeks to provide sufficient evidence that the direct appointment of Pudney Shuttleworth without seeking competition represents best value for the Council.

### **4.6 Risk Management**

- 4.6.1 It is considered there are no risks associated with this contract appointment.
- 4.6.2 If the appointment is not made, then there is the risk that the Council will not benefit in the ways set out in this report to include the risk that the space may remain unlet.

## **5 Conclusions**

- 5.1 In conclusion, this report seeks approval to waive Contracts Procedure Rules nos 8.1 and 8.2 Intermediate Value Procurements to enable the direct appointment of Pudney Shuttleworth for the letting of 3 Sovereign Square.

## **6 Recommendations**

- 6.1 The Chief Officer Resources & Strategy is recommended to approve the waiver of the following Contracts Procedure Rules to enable the Council to directly appoint Pudney Shuttleworth in the letting of 3 Sovereign Square:

Contracts Procedure Rules nos 8.1 and 8.2 – Intermediate Value Procurements, between £10,000 and £100,000.

## **7.0 Background Documents**

- 7.1 There are none.