



Report of Head of Land & Property

Report to Director of City Development

Date: 12 October 2020

Subject: Managing Rental Income - Leeds Arena

Are specific electoral wards affected?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, name(s) of ward(s):	Little London & Woodhouse
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If relevant, access to information procedure rule number: 10.4 (3)	
Appendix number: 1	

Summary

1. Main issues

- The Council currently leases the Leeds Arena to SMG Europe Holdings Limited (SMG). The lease was granted on 4 June 2013 and has a term of 25 years from 16 August 2013
- As a result of Covid-19 and Government restrictions, the Arena has not been able to operate since Mid-March 2020. It is also currently uncertain when it will be able to reopen, either partially or fully.
- SMG has approached the Council to ask if it is able to obtain assistance in relation to its rental obligations in terms of a payment plan to restructure the payments during this difficult trading period.

2. Best Council Plan Implications (click [here](#) for the latest version of the Best Council Plan)

- Inclusive Growth – the recommendations in this report help to support the Council's Best City Priorities for Inclusive Growth assisting in supporting the economic recovery from COVID-19 and building longer-term resilience.

3. Resource Implications

- Any reasonable legal costs associated with the lease transaction is to be borne by the tenant. Other financial implications are dealt with in the relevant sections of this report and appendix.

Recommendations

It is recommended that:

- 1 part of the annual rent for the Arena be paid by way of a payment plan over an agreed term. The details of which are set out in the confidential appendix
- 2 the lease be amended to reflect the current position. The details of which are set out in the confidential appendix

Purpose of this report

The purpose of this report is to:

- 1 Seek approval to a rental payment plan with SMG Europe Holdings Limited for their occupation of the Leeds Arena; and
- 2 Seek approval to entering into arrangements with SMG Europe Holdings Limited in respect of their lease of the Leeds Arena.

1. Background information

- 1.1 The Council currently lets the Leeds Arena (First Direct Arena) to SMG Europe Holdings Limited (SMG). The venue has a capacity of 13,000 and was the UK's first purpose built fan-shaped arena configuration.
- 1.2 The lease was granted on 4 June 2013 and has a term of 25 years from 16 August 2013.
- 1.3 The Arena officially opened in September 2013 and has been successful for Leeds in terms of events it holds and consequent profile on a global scale. Anecdotally, it is clear that the arena has the ability to increase footfall in the city centre on event days and this has associated increased trade for hotels, restaurants, public transport, car parking etc. There is also evidence that the area around the Arena has changed in response to its constructions/operation as the retail / F&B offer on Merrion Way has seen substantial improvement.
- 1.4 However, as a result of Covid-19 and Government restrictions, the Arena has not been able to operate since mid-March 2020. It is also currently uncertain when it will be able to reopen, either partially or fully.
- 1.5 As a result, SMG has approached the Council to ask for assistance in relation to their rental obligations in terms of the payments due owing to their inability to trade and generate income.
- 1.6 SMG are part of ASM Global who manage over 300 venues across the world; giving them considerable expertise and experience, making them a suitable tenant for the subject property. Until the pandemic there have been no landlord and tenant issues.

2. Main issues

- 2.1 SMG has advised that it could take a significant period of time for their business to recover fully from the impact of the pandemic. As a company they have taken and continue to take numerous steps to mitigate their losses whilst operations are not continuing.
- 2.2 As things stand, the Arena could re-open subject to social distancing restrictions. However, this would mean that the Arena would have to operate at a significantly reduced capacity and SMG have advised us that this is unviable. Looking forward, there may be on-going difficulties and restrictions remaining in place that prevent pre-Covid trading levels resuming to include restrictions on international travel (quarantining etc) and crowd numbers within the Arena for safe operation/social distancing. Government guidance remains restrictive.
- 2.3 The payment plan as set out in the confidential appendix has been provisionally agreed between parties and is reported here for approval.
- 2.4 SMG have agreed to meet the reasonable legal and associated costs that the Council might incur in implementing the arrangements referred to in this report.

3. Corporate considerations

3.1 Consultation and engagement

- 3.1.1 The Executive Member for Resources has been briefed on the situation and is supportive of the course of action proposed.
- 3.1.2 The Chief Officer – Financial Services has been consulted and has not raised any objections to the proposals contained in this report.
- 3.1.3 On 22 July 2020, the Chief Officer – Asset Management and Regeneration approved the Council entering into certain arrangements with Council tenants. The arrangements set out in this report are consistent with that approval.

3.2 Equality and diversity / cohesion and integration

- 3.2.1 There are no equality and diversity issues arising from the proposed arrangements.

3.3 Council policies and the Best Council Plan

- 3.3.1 The proposals as set out in this report are consistent with the Inclusive Growth priorities as set out by the council. The proposal will assist in supporting the economic recovery from COVID-19 and building longer-term resilience.

Climate Emergency

- 3.3.2 There are no issues associated with Climate Emergency connected to the recommendations in this report. The report is concerned with financial transactions.

3.4 Resources, procurement and value for money

- 3.4.1 Any reasonable legal costs associated with the arrangement are to be borne by the tenant. Other financial implications are dealt with in the relevant sections of this report and accompanying appendix.

3.5 Legal implications, access to information, and call-in

- 3.5.1 Under Part 3, Section 3E(g) of the Council's Constitution (Officer Delegation Scheme (Executive Functions)) the Director of City Development has authority to discharge any function of the Executive in relation to Asset Management.
- 3.5.2 The Chief Officer - Asset Management and Regeneration, the Head of Asset Management, the Head of Land and Property and the Deputy Head of Land and Property have authority to take decisions in relation to Asset Management as delegated in the Director of City Development's sub delegation scheme.
- 3.5.3 The proposal constitutes a Significant Operational Decision and is therefore not subject to call in.
- 3.5.4 Legal Services have provided advice in relation to the proposals outlined in this report and have confirmed that State Aid will not arise as the actions of the Council are consistent with what a private sector landlord would do in the same circumstances.
- 3.5.5 In making decisions of the nature sought by this report, the Council must have regard to its fiduciary duties to the Council Tax and business rates payers of Leeds, and must act in a business-like manner.
- 3.5.6 It should be noted that it will be necessary for the lease of the Arena to be varied to reflect the arrangements outlined in this report.
- 3.5.7 The information contained in the confidential appendix to this report relates to the financial and business affairs of SMG as well as those of the Council. This information is not publicly available and it is considered that it is not in the public interest to disclose this information at this point in time. Also it is considered that the release of such information would or would be likely to prejudice the Council's commercial interests in relation to other similar transactions. It is therefore considered that the information contained in the appendix to this report should be treated as exempt under Rules 10.4.3 of the Council's Access to Information Procedure Rules.

3.6 Risk management

- 3.6.1 In so far as there is a risk to the Council that SMG will default on the arrangements set out in this report, the Council currently holds security for the payment of rent in the form of a guarantee from SMG's parent company. The Council's agreement to the arrangements set out in this report is subject to that security applying both to the deferred rent and throughout the term of the lease and to the Council being satisfied that such security continues to provide acceptable security for a default by SMG. Alternatively, the Council will have to be provided with further acceptable security
- 3.6.2 SMG have been positively engaged with the Council with regards to coming to this arrangement and it is in line with that offered to other tenants.

4. Conclusions

- 4.1 It is concluded that the course of action set out in this report can be recommended for approval.

5. Recommendations

5.1 It is recommended that:

- 1 part of the annual rent for the Arena be paid by way of a payment plan over an agreed term. The details of which are set out in the confidential appendix
- 2 the lease be amended to reflect the current position. The details of which are set out in the confidential appendix

6. Background documents¹

6.1 None

¹ The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.