

REPORT TITLE: COMMERCIAL RENTS – DEFERRALS AND ABATEMENTS

18 AUGUST 2020

REPORT OF CABINET MEMBER: Councillor Neil Cutler – Deputy Leader and Cabinet Member for Finance and Risk

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WARD(S): ALL

PURPOSE

CAB3244 (Responding to the Coronavirus Outbreak) approved a process for considering rent abatement requests from the council's commercial tenants unable to pay rent through periods when they were not trading. 48 requests were approved in accordance with the scheme. The justification for ongoing abatements has now reduced given the national support packages and favourable commercial loan arrangements. Although some individual cases may need to be considered for abatement it is proposed that deferred payment arrangements be offered as the primary support mechanism, but the scheme be extended until March 2021.

The report also recommends to write off of a single debt in excess of £50,000 in relation to a commercial property in the council's portfolio.

RECOMMENDATIONS:

1. That the policy to support tenants within council's portfolio subject to certain conditions be extended for the period to March 2021.
2. That the decision to defer or write off any rent be delegated to the Section 151 officer following recommendation by the Rent Abatement Panel comprising the Cabinet Member: Housing & Assets, Cabinet Member: Finance Strategic Director Place and Corporate Head Asset Management
3. That the write off proposed in the exempt appendix, totalling £52,432 be approved.

IMPLICATIONS:

1 COUNCIL PLAN OUTCOME

- 1.1 The budget approved in February 2020 (CAB3211 refers) relies on £4m income from commercial tenancies that directly support the delivery of all outcomes set out in the Council Plan.
- 1.2 Providing support to tenants who are struggling to pay rent through periods where they have not been able to trade makes a positive contribution towards maintaining the economic health of the district.

2 FINANCIAL IMPLICATIONS

- 2.1 The council has 219 “income producing” commercial properties. Annual income from leases and ‘tenancies at will’ is £4.46 million. There are 48 retail assets in the portfolio and this accounts for approximately 50% of rental income. The council collected approximately 65% of its commercial rents in the first quarter and is currently following its arrears process for 3 properties with long standing cases on non payment.
- 2.2 The current rent forecast shows a potential deficit for the full year of £1.1m due to the impact of COVID 19 on rental receipts. This takes account of abatements approved to date.
- 2.3 CAB3244 delegated authority to the Section 151 officer in consultation with the informal Rent Abatement Panel to determine requests from commercial tenants for “rent holidays”, subject to strict criteria, covering the first quarter period.
- 2.4 Between 25 March and 24 June the panel supported 48 applications totalling £226k.
- 2.5 For the second quarter which covers the period 25 June to 29 Sept. 6 requests have been received for further rent abatement with a possible impact of £22k if approved. The justification for ongoing abatements has now reduced given the national support packages and favourable commercial loan arrangements. Although some individual cases may need to be considered for abatement it is proposed that deferred payment arrangements be offered as the primary support mechanism, but the scheme be extended until March 31.
- 2.6 In addition to the rent abatement process set out above, the exempt appendix includes a proposal for writing off a single debt totalling over £50,000, which relates to a business no longer operating in the district. In accordance with the council’s financial procedure rules, all debt write offs in excess of £50,000 require Cabinet approval.

3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 Due to Covid-19 outbreak new primary and secondary legislation and guidance was issued by central government. Government guidance was clear that Councils CAB3244 delegated authority to the Section 151 officer in consultation with the informal Rent Abatement Panel to determine requests from commercial tenants for “rent holidays”, subject to strict criteria, covering the first quarter period. There are no additional legal considerations in this report.
- 3.2 The council’s financial procedure rules require any write off over £50,000 to be approved by Cabinet.

4 WORKFORCE IMPLICATIONS

- 4.1 Proposals in this report have no significant additional workforce implications, other than existing resources employed on the management of commercial tenancies in the Estates team.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 As landlord the council has to balance the need to maintain rental income with support for tenants, many of whom have had to close their business premises due to Covid-19. There is also the need for the council to use its discretion as landlord to help tenant businesses survive so that when the economy starts up again they are ready to trade.
- 5.2 The over-riding principle is that the council aims to support its tenants through the current economic pressures to enable them to survive and return to fully rent paying tenants in the near future, and to continue their contribution to the local economy.
- 5.3 However the council as landlord needs to be robust in its approach and also take a fair and considered view of all requests for deferral of rent or rent abatement.
- 5.4 The decision to respond to an application from a commercial tenant of the council and to offer the council’s commercial tenants, paying commercial rent, a deferral or an abatement, is made “without prejudice” to the remainder of a tenant’s lease obligations. A current and valid tenancy agreement, preferably a lease rather than a tenancy at will, is required in order to enact the recommendations.
- 5.5 All of the council’s commercial tenants, who apply and are granted a deferral or rent abatement, are required to comply with the remaining terms of their lease. The decision to offer tenants an abatement is a one off concession in circumstances where payment relief is required for economic reasons due to the extraordinary current circumstances.

5.6 Where agreed, a 'write off' can be readily implemented through a side letter and no variation to the existing lease is required.

6 CONSULTATION AND COMMUNICATION

6.1 The informal Rent Abatement Panel has been consulted on all recommendations prior to final decisions.

7 ENVIRONMENTAL CONSIDERATIONS

7.1 Maintaining existing tenancies avoids the environmental impact of stripping out and re-fitting premises.

8 EQUALITY IMPACT ASSESSMENT

8.1 The Councils public sector equality duty requires the consideration of all those in the protected criteria of the Equality Act 2010. This report recommends no changes other than an extension of the existing decision.

8.2 All of our tenants provide a variety of services to the local population and visitors to Winchester along with associated employment opportunities.

9 DATA PROTECTION IMPACT ASSESSMENT

9.1 Rent data held on the councils financial systems is updated in accordance with the rent abatement panel decisions.

10 RISK MANAGEMENT

10.1 The financial impact of COVID19 is without precedent and the potential risks and proposed mitigation are discussed in the table below:

Risk	Mitigation	Opportunities
<i>Property Significant risk of loss of income from businesses unable to trade and therefore pay rent</i>	Revised budget proposals to be considered by Council in September will include a range of measures to reduce revenue and capital spend and to maintain a balanced budget in light of projected income losses.	
<i>Financial / VfM Significant risk to maintaining a balanced budget as a result of reduced income and forecast budget deficits</i>	Revised budget proposals to be considered by Council in September will include a range of measures to reduce	

<p><i>Commercial rents not covered by Govt “co-payment” assistance scheme</i></p> <p><i>Abatement/deferral insufficient to support business sustainability</i></p>	<p>revenue and capital spend and to maintain a balanced budget in light of projected income losses.</p> <p>As above</p> <p>Assessment process considers ongoing sustainability</p>	
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11 OTHER OPTIONS CONSIDERED AND REJECTED

11.1 Consideration was given to not considering requests for deferrals or abatements of rents. However, the potential risk of losing valued tenants and extended periods of property voids is considered to be high and therefore considering the provision of support on a case by case basis is recommended.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

CAB3244 - Responding to the Coronavirus Outbreak dated 21 May 2020

Other Background Documents:-

None

APPENDICES:

Exempt Appendix - Write Off proposal