

## REPORT TO EMERGENCY COMMITTEE

22 April 2020

<b>Subject:</b>	<b>Rent arrears on the Council's commercial portfolio</b>
<b>Director:</b>	<b>Executive Director of Neighbourhoods – Dr Alison Knight</b>  <b>Interim Director – Regeneration and Growth</b> <b>Tammy Stokes</b>
<b>Contribution towards Vision 2030:</b>	 
<b>Contact Officer(s):</b>	<b>David Harris</b> <b>Service Manager Strategic Assets and Land</b>

### DECISION RECOMMENDATIONS

1. That debt recovery on the Council's commercial property portfolio actively not be pursued over the period of March to June 2020.
2. That in connection with 1. above, the Interim Director - Regeneration and Growth and the Section 151 Officer review the position on a month to month basis and the decision to reinstate charges and debt enforcement to be reported back to the Emergency Committee.
3. That the Interim Director - Regeneration and Growth agree, where appropriate, individual plans in respect of any repayment of rents to allow for business continuity and support for the Council's commercial tenants.
4. That approval is given to cease charging rent to Market traders for the period 23 March 2020 onwards, to be reviewed on a monthly basis by

the Interim Director - Regeneration and Growth and the Section 151 Officer and the decision to reinstate charges to be reported back to the Emergency Committee.

## **1 PURPOSE OF THE REPORT**

- 1.1 By not pursuing rent arrears during the current quarter, this will allow individual businesses to develop a revised fiscal plan protecting jobs and reducing the impact on Sandwell's micro economy.
- 1.2 By supporting the local economy with these measures, it will allow commercial tenants to develop resilience and contingency measures to protect and improve the sustainability of their business model.
- 1.3 From the June 2020 quarter date and as appropriate, individual tenants who have expressed a cessation of their rent to be contacted to agree a bespoke repayment plan tailored to their individual needs, business model and financial position.

## **2 BACKGROUND AND MAIN CONSIDERATIONS**

- 2.1 The Council's corporately owned and managed commercial portfolio provides land and premises for business to operate in Sandwell.
- 2.2 The portfolio provides the opportunity for business start-up, inward investment and the facility for existing businesses to expand. These situations are responsible for positive economic stimuli in the borough.
- 2.3 Sandwell's economy therefore benefits from continued employment opportunities, business rate payments and local spend within the borough.

## **3 THE CURRENT POSITION**

- 3.1 The Council have received a number of approaches from tenants advising that they are unable to meet their ongoing rent commitments at the current time due to the COVID 19 pandemic and expressing concern that the continued debt may lead to the Council taking recovery action or even their lease agreements being terminated.

## **4 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)**

- 4.1 The situation as currently exists is unprecedented and not covered under the commercial portfolios resilience measures and has not been subject to any previous consultation.
- 4.2 There exists a historic debt legacy with some tenants that has been proactively managed as part of a recovery strategy to try and assist business to thrive prior to the Covid 19 pandemic taking hold.
- 4.3 Councillors Millard and Ali have been consulted as part of the process with no matters being raised.

## **5 ALTERNATIVE OPTIONS**

- 5.1 To continue to pursue outstanding rent arrears could cause distress to businesses both on an economic and physical level.

## **6 STRATEGIC RESOURCE IMPLICATIONS**

- 6.1 In total, the Council's commercial portfolio yields approximately £3.6 million of rental income per annum.
- 6.2 The non-pursuance of accrued rental arrears on commercial portfolio along with rent cessation for Markets will have a medium-term impact on the commercial revenue stream.
- 6.3 The impact on revenue will be a deferral of income receipts due to longer term repayment plans agreed with tenants for a period beyond 12 months.
- 6.4 There will also be an increased risk of bad debts from the accrued rental arrears.
- 6.5 It is impossible to predict the duration or extent of the impact on the businesses operated by the tenants at this juncture, but it is suggested that in liaison with Finance and Debt Recovery Officers, a quarterly review is undertaken to assist with the Council's overall budget projections and to ensure the sustainability of income moving forward.

6.6 The rental income budget set for Markets and Street Trading in 2020/21 is £89,000 per month. This income will be lost until such time as policy changes to allow normal trading. However, even when trading restriction are removed, it is likely that there will be a residual deficit as some market traders may have been forced to cease trading permanently, due to failure of their business, or relocated to rival markets elsewhere in the region.

## **7 LEGAL AND GOVERNANCE CONSIDERATIONS**

7.1 All commercial leases include a covenant that rental should be discharged by the tenant whether demanded or not. Commercial leases will also contain a mechanism for the Council as Landlord to forfeit the lease upon default or persistent late or non-payment of rent.

7.2 This is however at the discretion of the landlord so will not present as a problem if the Council provides a rent deferment holiday in these unprecedented circumstances.

## **8 EQUALITY IMPACT ASSESSMENT**

There are no equality impact implications of the proposals.

## **9 DATA PROTECTION IMPACT ASSESSMENT**

There are no data protection implications of the proposals.

## **10 CRIME AND DISORDER AND RISK ASSESSMENT**

There are no crime and disorder risks as a result of the proposals.

## **11 SUSTAINABILITY OF PROPOSALS**

The sustainability of local businesses is paramount to Sandwell on a wider economic level to ensure job growth and creation, business rate income and a sustainable rental income model to support the Council's financial commitments.

## **12 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)**

There are no health and wellbeing implications.

### **13 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND**

- 13.1 Should any businesses within the portfolio be unable to continue to trade and potentially liquidate, this will result in an increased vacancy rate with the direct economic result of a loss of rent and business rates.
- 13.2 This will incur the Council further expense with security measures to manage any voids and the potential costs of any works to the premises necessary in accordance with statutory compliance prior to remarketing.

### **14 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

- 14.1 The current COVID-19 pandemic and the government's implemented measures to help slow the virus has had a detrimental effect on business within Sandwell and its micro economy.
- 14.2 Sandwell Council's commercial portfolio comprises shop premises, small industrial units and small enterprise centres that encourage start-up businesses. These premises are predominantly occupied by micro businesses or sole proprietorships.
- 14.3 The portfolio also comprises ground leases which are traditionally occupied by Small - Medium Enterprises (SME) that provide wider employment opportunities for the benefit of the borough and its residents.
- 14.4 The Council's markets are also included in the portfolio and it would be consistent with the wider portfolio approach if the same policy was applied to market trader arrears.
- 14.5 The government's implementation measures (lock down) have severely restricted the ability of both these micro businesses and SME's to operate or trade and the Council has received a number of approaches from tenants concerned that they are unable to meet their rental commitments.
- 14.6 If the situation is not addressed the result could see commercial tenants and micro businesses in particular get into financial difficulty or even go into liquidation.
- 14.7 These scenarios would see a negative impact on Sandwell's micro economy resulting in localised unemployment and the council income stream from its commercial estate drastically reduced.

15 **BACKGROUND PAPERS**

None

16 **APPENDICES:**

None