

To: City Executive Board

Date: 14th October 2009 **Item No:**

Report of: Interim Head of Property & Facilities Management

Title of Report: Macmillan House, St Aldates Courtyard, Oxford

Summary and Recommendations

Purpose of Report: This report seeks approval of the rent review dated 27th April 2009 of the head lease between the Co-operative Insurance Society Ltd and Oxford City Council.

This report also seeks authority to the sub-letting of Oxford City Council's interest to Oxford International College Ltd.

Key decision: No

Executive lead member: Councillor Oscar van Nooijen – Service Transformation

Report approved by: Melbourne Barrett – Executive Director, City Regeneration

Finance: Sarah Fogden & Penny Gardner

Legal: Jeremy Thomas

Policy Framework: Transform Oxford City Council by improving value for money and service performance.

Recommendation(s): City Executive Board is recommended to:

1. To note the head-lease rent review between the Co-operative Insurance Society Ltd and Oxford City Council at the consideration as outlined on the Confidential Appendix to this report.
2. Approve the principle of a simultaneous termination of the sub-lease to the Dialogue Group and re-grant of a new lease to Oxford International College, at a rent as detailed in the Confidential Appendix of this report, and otherwise on terms and conditions to be approved by the Interim Head of Property and Facilities Management.

Background

1. Macmillan House is held on a lease by the City Council until 29th September 2013 at a rent of £126,400 per annum, subject to an outstanding review from 27th April 2009. It comprises 7,911 square feet net of office space on four floors, together with two parking spaces.
2. The accommodation has been surplus to the Council's operational requirements since 2001 and has therefore been sub-let as a whole on an Under-Lease at a rental of £126,400 per annum, with a contractual expiry date of 27th April 2009. The current sub-tenant, TDG Operations Ltd, is continuing in occupation for the time being, paying a rent as detailed in the Confidential Appendix attached to this report, but does not intend to renew the lease.

Report

3. TDG Operations Ltd has been marketing its lease, together with the residue of the Council's Head-Lease, since early 2008, with a view to downsizing or relocating from the building.
4. Oxford International College wish to take over the whole building on a new Sub-Lease to be granted by the Council, to expire co-terminously with the Council's own Head-Lease in 2013.
5. It is further proposed as part of this transaction that TDG Operations Ltd will take over Oxford International College's lease at their existing premises at Hythe Bridge Street (not in Council ownership). Effectively this is a building swap on terms and conditions to be agreed between the two parties.
6. In order to facilitate the new sub-letting to Oxford International College, the Council is required to obtain the consent of its landlord, both to the terms of the under-letting and to the change of user required from B1 offices to D1 educational use. However, the Co-op were not prepared to grant consent until such time as the rent review was also agreed and they have absolute discretion in terms of the change of use.
7. The Council's landlord (the Co-op) has also during this time been marketing its long leasehold interest in the property. This has had the effect of delaying the granting of consent to Oxford City Council required to progress the sub-letting, as the Co-op did not want to prejudice any prospective purchaser's strategy with the building. In addition, it has also been necessary for the two occupiers to seek planning consent for the respective changes of use at each of their buildings.
8. Consequently negotiations for the sub-lease can now only be progressed. It is proposed that the new sub-tenant pays the new level of rent, however due to market conditions a rental inducement will need to be negotiated.

Environmental Implications

9. There are no implications that arise within this transaction.

Planning Implications

10. Oxford International College have applied for change of use to D1 – Educational uses. Planning polices in the West End Area Action Plan will apply.

Financial Implications

11. The disposal of the Council's interest by way of a sub lease to Oxford International College represents a significant reduction to its financial exposure on this building particularly as the Council's lease has a relatively short period left to run.
12. The Council will have to pay the rent to cover the period of the inducement, which is as yet not determined. There will also be a small shortfall between the Council's rental outgoings and its rental income for the period from 27 April 2009 until the grant of the new sub-lease at the higher rent. A provisional estimate of the amount to cover the period of the inducement has been budgeted for in the 09 / 10 Rental Budget, however the exact amount has not yet been finalised in the negotiations.
13. The Council will be liable to pay the Co-op's legal and surveying fees in respect of the consents required for the under-letting and change of use. It will also incur agent's fees and legal fees in this transaction in amounts to be agreed.

Legal Implications

14. The Council is disposing of its lease interest in Macmillan House at best consideration and this complies with Section 123 of the Local Government Act 1972.

Equality Implications

15. There are no direct implications arising out of this proposal.

Risk Implications

16. A risk assessment has been undertaken and the risk register is attached at Appendix 2.

Recommendations

17. To approve the head-lease rent review between the Co-operative Insurance Society Ltd and Oxford City Council at the consideration as outlined on the Confidential Appendix to this report.

18. Approve the principle of a simultaneous termination of the sub-lease to TDG Operations Ltd and re-grant of a new sub-lease to Oxford International College.
19. Allow the Interim Head of Property and Facilities Management, in consultation with Legal and Finance to approve the final terms and conditions for the surrender and re-grant as it is likely that the transaction will need to be concluded prior to the next CEB meeting on 2nd December 2009.

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Background papers:

APPENDIX 1

CEB Report Risk Register

Risk Score **Impact Score:** 1 =Insignificant; 2 = Minor; 3 = Moderate; 4 = Major; 5 = Catastrophic **Probability Score:** 1 = Rare; 2 = Unlikely; 3 = Possible; 4 = Likely; 5 = Almost Certain

No.	Risk Description Link to Corporate Objectives	Gross Risk		Cause of Risk	Mitigation	Net Risk		Further Management of Risk: Transfer/Accept/Reduce/Avoid		Monitoring Effectiveness				Current Risk	
		I	P			I	P	Q	Q	Q	Q	I	P		
1	Failure of TDG Operations Ltd and Oxford International College Ltd to agree terms for a building swap potentially resulting in OCC having a vacant building with a rental liability paying £130k pa.	4	3	OCC has no control over the negotiations between the parties.	Mitigating Control: Level of Effectiveness: (HML) OCC to co operate fully with both parties (L)	4	3	Action: Accept outcome of negotiations . Action Owner: Lucy Darnell Mitigating Control: Regular monitoring of progress of legal process in conjunction with legal colleagues. Control Owner: Lucy Darnell	Outcome required: Terms agreed Milestone Date: November	1	2	3	4	4	3
2	Failure of OCC and Oxford International College Ltd to agree terms and cons for a new sub lease would result in OCC having a vacant building with a £130k pa rental liability.	4	3	Unable to agree mutually acceptable terms for the sub lease	All options to enable the sub lease to proceed to be considered (M)	4	1	Action: Avoid Mitigating Control: Control Owner: Lucy Darnell	Outcome required: Terms agreed Milestone Date November					4	2

