

DMPC Decision – PCD 809

Title: Fresh Wharf Estate – Rent Review

Executive Summary:

Fresh Wharf is a site leased for use as warehousing and office facilities. As a result of a 5 yearly rent review on the existing lease MOPAC is asked to approve the business case. The increase in rent has been foreseen by the MPS and sufficient budget provided for the intended period of occupation.

Recommendation:

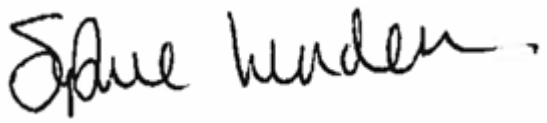
The Deputy Mayor for Policing and Crime is recommended to approve the business case for the agreement of the revised rent.

Deputy Mayor for Policing and Crime

I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Code of Conduct. Any such interests are recorded below.

The above request has my approval.

Signature



Date 24/08/2020

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE DMPC

1. Introduction and background

- 1.1. MOPAC leases a unit at Fresh Wharf Estate to provide warehousing and office facilities. The lease is subject to regular 5 yearly rent review.

2. Issues for consideration

- 2.1. The proposed higher rent is consistent with regional industrial unit rentals and is above the MOPAC scheme of delegation for the approval of business cases. See part 2 for further detail.

3. Financial Comments

- 3.1. The increase in the rent has been foreseen by the MPS and sufficient budget provided for the intended period of occupation.

4. Legal Comments

- 4.1. In carrying out its functions, MOPAC may, under paragraph 7, Schedule 3 of the Police Reform and Social Responsibility Act 2011 “do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of the functions of the Office”.
- 4.2. Under the MOPAC Scheme of Consent and Delegation 4.8 the DMPC must approve “Business cases for revenue or capital expenditure of £500,000 and above.”
- 4.3. The MPS has confirmed that the negotiation is in accordance with established commercial and legal practice.

5. Commercial Issues

- 5.1. The MPS appointed property agents have confirmed that the increase in rent is evidenced by other comparable rentals. See part 2 for further detail.

6. GDPR and Data Privacy

- 6.1. This report does not use personally identifiable data of members of the public therefore there are no GDPR issues to be considered

7. Equality Comments

- 7.1. MOPAC is required to comply with the public sector equality duty set out in section 149(1) of the Equality Act 2010. This requires MOPAC to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations by reference to people with protected characteristics. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

7.2. There are no equality implications arising from this proposal.

8. Background/supporting papers

8.1. Appendix 1 MPS Report.

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOIA) and will be made available on the MOPAC website following approval.

If immediate publication risks compromising the implementation of the decision it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary.

Part 1 Deferral:

Is the publication of Part 1 of this approval to be deferred? NO

If yes, for what reason:

Until what date: n/a

Part 2 Confidentiality: Only the facts or advice considered as likely to be exempt from disclosure under the FOIA should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a **Part 2** form – YES

ORIGINATING OFFICER DECLARATION	<i>Tick to confirm statement (✓)</i>
Financial Advice: The Strategic Finance and Resource Management Team has been consulted on this proposal.	✓
Legal Advice: The MPS legal team has been consulted on the proposal.	✓
Equalities Advice: Equality and diversity issues are covered in the body of the report.	✓
Commercial Issues Commercial issues are covered in the body of the report.	✓
GDPR/Data Privacy GDPR compliance issues are covered in the body of the report.	✓
Director/Head of Service: The interim MOPAC Chief Finance Officer has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.	✓

Chief Executive Officer

I have been consulted about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the Deputy Mayor for Policing and Crime.

Signature



Date 21/08/2020

Rent Review Building 4 Unit 24 Muirhead Quay, Fresh Wharf Estate**MOPAC Investment Advisory Monitoring - July 2020****Report by the Director of Property Services on behalf of the Deputy
Commissioner****Part 1 – This section of the report will be published by MOPAC. It is
classified as OFFICIAL – PUBLIC****Summary**

This report provides a summary of the rent review negotiations on the outstanding rent review at Building 4 Unit 24 Muirhead Quay, Fresh Wharf Estate and seeks approval to the revised rent as set out in Part Two, effective from 25th September 2019.

Recommendations

The Deputy Mayor for Policing and Crime, via the Investment Advisory and Monitoring meeting (IAM), is asked to:

1. **Agree the revised rent following the 2019 Rent Review. Noting that costs will be met from within existing resources.**

Time sensitivity

A decision is required from the Deputy Mayor by Tuesday 4th August 2020 because any delay could jeopardise the current commercial position.

Non-confidential facts and advice to the Deputy Mayor for Policing and Crime**Introduction and background**

1. The property is located at Muirhead Quay/Fresh Wharf Estate in Barking. Barking is located approximately 2¾ miles to the south of Ilford, 4 ¼ miles to the East of Stratford, 7 miles to the south west of Romford and 8 ½ miles to the east of Central London (Aldgate).
2. The unit is an L shaped steel portal frame industrial building with ground floor warehouse space and 1st floor offices totalling approximately 44,794 sq ft. Internally, the unit has been heavily fitted out and is used as a police response unit and custody centre. We understand all these bespoke fit out works are covered by a Licence for Alterations dated 9th October 2009. The original first

floor offices, have been extended by way of an additional concrete mezzanine floor. The additional mezzanine area is disregarded at rent review.

3. Externally, the property benefits from a service yard to the north west of the unit, which allows for 42 parking spaces. A further 9 car parking spaces are designated to the south east of the unit.
4. MOPAC have a 20 year lease, which commenced on 25 September 2009 and expires on 24 September 2029. The current passing rent is £461,400 pa. (£10.30 psf). The lease makes provision for upwards only 5 yearly rent reviews with effect from 25 September 2019. There is a further review in September 2024 and on the last day of the contractual term 24 September 2029. The Landlord is Fresh Warf Estate Ltd.
5. The landlord has referred this matter to an. Arbitrator. The arbitrator costs at present are minimal, however if the review was to drag out they could become costly.
6. The Landlord served a Calderbank at which has now expired. Following further negotiations Knight Frank were able to agree a further rent reduction to which has been agreed and a Rent Review Memorandum issued.

Issues for consideration

7. MOPAC are legally committed to the rent review process under the originally approved lease terms and in the event of not completing the rent review will be subject to arbitration.

Financial, Commercial and Procurement Comments

1. MOPAC currently occupy Building 4 Muirhead Quay with an annual rent of £461,400 pa. (£10.30 psf). Following the Landlord triggering a rent review, Property Services are seeking approval to pay the increased rent as set out in Part Two.
2. The 2020/21 budget includes provision to meet the increased costs.
3. A more detailed breakdown of costs is attached at Part Two.

Legal Comments

1. The delegated approval under the MOPAC Scheme of Consent & Delegation falls to Director of Property Service and does not specifically require approval from Management board via PIB. Given the significant increase in annual rent, which exceeds the Director of Property Services' delegated authority limit of £500,000, MOPAC have requested that in this instance additional approval is required prior to MOPAC signing the rent review memorandum.

2. The MOPAC Scheme of Consent & Delegation is silent on approvals for rent reviews. The lease has already been approved by MOPAC and contractually entered into. The rent review is a function of the agreed and legally binding lease terms and cannot be avoided or refused. Knight Frank have concluded the rent review with the landlord by negotiation in accordance with established commercial and legal practice and require the signing of the Rent Review Memorandum to confirm this.
3. This paper is not seeking approval for the rent review but is confirming that the rent review is agreed and recommended as described above. Failing to sign the rent review memorandum will result in MOPAC being taken to arbitration and the rent review forced upon MOPAC. In this case MOPAC are likely to be liable for the costs, including landlord costs, of the arbitration if the rent determined by the arbitrator was not significantly lower than that already agreed. Knight Frank do not anticipate a significantly lower rent to be a likely arbitration outcome, a more likely outcome would be a higher rent than what has currently been agreed.
4. Property Services wish to have the Memorandum signed as a matter of urgency as the landlord is pressing for this matter to be resolved. This property is on the retained list and Property Services wish to maintain a strong and positive relationship with the landlord. A delay to the signing of the memorandum may undermine this relationship, potentially to the detriment of our commercial position.

Equality Comments

1. There are considered to be no equality or diversity issues arising from this paper.

Privacy Comments

1. There are no privacy issues identified through the Data Protection Impact Assessment (DPIA) completed for this work. The project does not use personally identifiable data of members of the public, so there are no GDPR issues to be considered.
2. The MPS is subject to the requirements and conditions placed on it as a 'State' body to comply with the European Convention of Human Rights and the Data Protection Act (DPA) 2018. Both legislative requirements place an obligation on the MPS to process personal data fairly and lawfully in order to safeguard the rights and freedoms of individuals.
3. Under Article 35 of the General Data Protection Regulation (GDPR) and Section 57 of the DPA 2018, Data Protection Impact Assessments (DPIA) become mandatory for organisations with technologies and processes that are likely to result in a high risk to the rights of the data subjects.

4. The Information Assurance and Information Rights units within MPS will be consulted at all stages to ensure the project meets its compliance requirements.

Real Estate Implications

5. This property forms part of the retained estate.

Background/supporting papers

Fresh Wharf Rent Review Report April 2020 prepared by Knight Frank LLP.

Report Author: Henry Pilleau - Knight Frank LLP

Part 2 – This section refers to the details of the Part 2 business case which is NOT SUITABLE for MOPAC Publication.

The Government Security Classification marking for Part 2 is:
OFFICIAL-SENSITIVE [COMMERCIAL]

Part 2 of Request for Approval to Dispose of Surplus Real Estate Assets – 2019/2020 is exempt from publication for the following reasons:

Exempt under Article 2(2)(a) of the Elected Local Policing Bodies (Specified Information) Order 2011 (Data Protection Section 43 – Commercial Interests).

The paper will cease to be exempt after 5 years