

Name of meeting: Cabinet
Date: 9 May 2016

Title of report: Proposed lease of land and buildings at Trident Business Park, Neptune Way, Leeds Road, Huddersfield HD2 1UA

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the Council's Forward Plan ?	No
Is it eligible for "call in" by Scrutiny ?	Yes
Date signed off by <u>Director</u> & name	Jacqui Gedman – 25 April 2016
Is it signed off by the Director of Resources?	David Smith – 22 April 2016
Is it signed off by the Assistant Director - Legal, Governance & Monitoring?	Julie Muscroft – 22 April 2016
Cabinet member portfolio	Resources and Community Safety - Councillor Graham Turner

Electoral [wards](#) affected: Ashbrow
 Ward councillors consulted: Yes

Public or private: Public report - private appendix

1. Purpose of report

- 1.1 The purpose of this report is to seek the approval of Cabinet for the Council to grant a lease of land and buildings at Trident Business Park to Sellers Global Engineers Limited.

2. Key points

- 2.1 The Council lease in land and buildings at Trident Business Park ("The Premises") from a private landlord CIP Property (AIPT) Limited ("the Head Landlord") which is part of the Aviva Insurance group. This lease

is for a period of 12 years from 01 January 2011 (expires 31 December 2023) (“the Headlease”). Details of the existing lease are contained in the private appendix to this report.

- 2.2 An underlease was granted to Sellers Engineers Limited for a term of 12 years (less 5 days) from 01 January 2011 (“the Underlease”). The Underlease passed down to Sellers Engineers Limited all liabilities and responsibilities, that the Council owe to the Head Landlord under the terms of the Headlease).
- 2.3 The Council took its Headlease and then granted the Underlease in order to facilitate the relocation of Sellers Engineers Limited from Chapel Hill. This relocation allowed the Council to gain possession and progress the Waterfront Quarter Regeneration.
- 2.4 In September 2014 Sellers Engineers Limited went into administration. The administration was in essence a “pre-pack”, in that it was always intended as part of the administration, that the administrator should sell the assets of Sellers Engineers Limited to Sellers Global Engineers Limited and transfer the Underlease to Sellers Global Engineers Limited.
- 2.5 Unfortunately, Sellers Engineers Limited came out of administration before the transfer of the Underlease had been completed. The principal reason why the transfer had not been carried out before the ending of the administration, was that it was necessary to get the approval of the Head Landlord to the transfer of the Underlease to Sellers Global Engineers Limited. One of the consequences of the ending of the administration was that the administrators filed an irrevocable notice of dissolution at Companies House, which meant that the transfer of the Underlease could not be carried out or registered at the Land Registry before Sellers Engineers Limited ceased to exist.
- 2.6 Immediately prior to the dissolution of Sellers Engineers Limited, the Council terminated the Underlease and then granted an oral tenancy at will to Sellers Global Engineers Limited to enable the company to continue trading from the Premises.
- 2.7 All sums payable to the Council under the underlease, with Sellers Engineers Limited, and the oral tenancy, with Sellers Global Engineers Limited, have been paid.
- 2.8 Terms have been agreed, with Sellers Global Engineers Limited, for them to take an underlease of the Premises for the remainder of the Council’s leasehold interest. Details of these terms can be seen in the private appendix to this report.
- 2.9 In essence the Council will have the benefit of the same obligations from Sellers Global Engineers Limited in the proposed underlease that the Council owes to the Head Landlord in the Headlease. The Council is therefore passing down to Sellers Global Engineers the responsibility to discharge all its obligations in the Headlease (although the Council

will continue to remain liable to the Head Landlord for ensuring the discharge of those obligations).

3. Implications for the Council

- 3.1 The proposed lease will ensure that the Council meets its obligations under the Headlease, at no cost by passing all its obligations onto Sellers Global Engineers Limited.
- 3.2 If a lease is not granted, there is a risk that Sellers Global Engineers Limited may vacate, leaving the Premises empty, but with the Council still under an obligation to pay the rent under the Headlease and to perform all the other terms of the Headlease.
- 3.3 Sellers Global Engineers Limited will reimburse the Council's reasonable legal costs incurred in granting the new lease and in obtaining the consent of the Head Landlord to the grant of the new lease. In addition, Sellers Global Engineers Limited, will reimburse the Head Landlord for its reasonable, legal and surveyor costs incurred, in the giving of its consent to the grant of the new lease.

4. Consultees and their opinions

Local ward members were consulted and no objections were received.

5. Next steps

- 5.1 If Cabinet give approval to the letting officers for Legal, Governance and Monitoring, Physical Resources and Procurement will negotiate and agree the final form of lease with Sellers Global Engineers Limited, obtain the necessary consents from the head Landlord and execute the necessary documents.

6. Officer recommendations and reasons

Officers recommend that Cabinet:

- 6.1 Authorise the grant of a new lease to Sellers Global Engineers Limited at the rent and for the duration set out in the Appendix.
- 6.2 That authority is delegated to the Assistant Director - Place, to negotiate and agree the other terms of the lease, referred to in paragraph 6.1 and any other relevant agreements or documents that relate to the grant of that lease.
- 6.3 That authority is delegated to the Assistant Director, Legal Governance & Monitoring, to enter into and execute the lease referred to in paragraph 6.1 and any other relevant agreements or documents that relate to the grant of that lease.

7. Cabinet portfolio holder recommendation

- 7.1 The portfolio holder recommends that Cabinet approve the letting in line with officer recommendations

8. Contact officer and relevant papers

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9. Assistant Director responsible

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