

## **EWELL COURT HOUSE**

<b>Head of Service:</b>	Mark Shephard, Head of Property and Regeneration
<b>Wards affected:</b>	(All Wards);
<b>Urgent Decision? (yes/no)</b>	No
<b>If yes, reason urgent decision required:</b>	
<b>Appendices (attached):</b>	Appendix 1 – Confidential Financial Forecast

### **Summary**

This report seeks approval to award the service contract (including commercial lease) for a specialist weddings and events partner to manage the venues operation of Ewell Court House.

### **Recommendation (s)**

#### **The Committee is asked to:**

- (1) Agree to award a 10 year service contract, with the option to extend for a further 5-years, to Bovingdons Catering Ltd on the confidential financial terms as set out in Appendix 1.**
- (2) Agree to award a 10 year commercial lease (co-terminus with the above service contract), to Bovingdons Catering Ltd.**
- (3) Authorise the Head of Property & Regeneration, in consultation with the Chief Finance Officer, to progress and complete the above legal documentation.**

## **1 Reason for Recommendation**

- 1.1 Following a compliant procurement procedure, Bovingdon Catering Ltd can offer the Council firm reassurance that they have the experience and capacity to undertake the successful management of Ewell Court House.

## **2 Background**

- 2.1 Ewell Court House is a Council owned Grade II listed building constructed in 1879 and incorporating earlier structures dating back to the 17<sup>th</sup> century. It is an imposing and characterful building that is licenced for wedding and civil ceremonies.

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- 2.2 It is widely acknowledged that Ewell Court House has great potential as a venue for weddings and other important occasions as well as being a valued place for local community groups to meet. The building can accommodate 90 guests for a wedding breakfast and 120 guests for an evening party. It can also seat 100 for a wedding ceremony.
- 2.3 The Council has worked closely with a local community group, Ewell Court House Organisation (ECHO) who have supported the Council in promoting the importance of the building.
- 2.4 Since the reopening of Ewell Court House in 2015 following a fire and subsequent refurbishment, the Council has undertaken various additional marketing activities to increase bookings and income levels. However, despite some success, it remained below expectations and there continued to be significant times when the building was unoccupied.
- 2.5 At its meeting on 30 July 2019, this Committee approved officers to procure, through a competitive selection process, a suitable specialist partner to manage bookings and events at Ewell Court House. Through the procurement process, the partner would also be expected to recognise and support the important role the venue serves in the community.
- 2.6 The service partner would be granted a commercial lease (co-terminus with the service contract) and thereby become responsible for the day-to-day maintenance and repair of the building.
- 2.7 Through this arrangement, the Council would be transferring the operational financial risk to the partner organisation for the period of the agreement, with the partner taking on responsibility for the future pricing structure.
- 2.8 Due to the pandemic, Ewell Court House was closed to the public on 19 March 2020, a few days prior to the first national lockdown from 23 March 2020. When venues could finally reopen from June 2021, Ewell Court House became a Covid-19 Testing Centre.

### **3 Procurement**

- 3.1 On 6 October 2021, the Council published a Prior Information Notice (PIN) via its eSourcing portal In-Tend. PIN's are public notices used to signal to the wider market that a tender opportunity is due to be advertised. Within this procurement, it gave potential bidders 22 days' prior notice to the opportunity be advertised.
- 3.2 On 28 October 2021, the tender was formally published on the Council's eSourcing platform. This platform alone advertised the tender opportunity to 470 registered suppliers.

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- 3.3 The Council had a further statutory obligation to advertise this tender on both Contracts Finder (CF) and Find a Tender Service (FTS). CF and FTS are platforms set up by Central Government to advertise public sector contract opportunities to ensure maximum marketing exposure.
- 3.4 The tender was live within In-Tend for 10 weeks and 5 days being 6 weeks longer than statutorily obligated. This not only allowed for the Christmas period, but it was also considered that the scope and scale of this procurement warranted additional time to ensure only high-quality bids were received.
- 3.5 During this time, the Council received four (4) expressions of interest (Eoi). An Eoi is a bidder's decision to look at and review the Council's tender documentation. From these Eoi's, only one (1) took the opportunity of a site visit.
- 3.6 The tender closed on Tuesday 11<sup>th</sup> January 2022 and one (1) bid was received.
- 3.7 The Transfer of Undertakings (Protection of Employment) (TUPE) was not considered to be applicable in this procurement. This was due to both former Ewell Court House venues staff finding alternative positions within the Council during the pandemic.

#### **4 Bid Offering**

- 4.1 From the 1st April 2022, it is anticipated that Bovingdons Catering Ltd will take on the full responsibility of running Ewell Court House offering weddings, private & corporate events and a venue for community groups to continue hiring.
- 4.2 Using their proven marketing strategy and events experience, Bovingdons anticipate quickly increasing customer awareness of Ewell Court House.
- 4.3 Bovingdons is well known to the Joint Management Committee of Nonsuch Park. The Park is the joint responsibility of EEBC and London Borough of Sutton where Bovingdons successfully operate the venues function by commercially leasing the Grade II\* listed Mansion House, Nonsuch Park.
- 4.4 Bid criteria included demonstrating the following:
  - 4.4.1 Relevant experience – both operating venues (including customer care) and generating growth.
  - 4.4.2 Custodianship of listed buildings – maintaining and managing sensitive buildings.

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- 4.4.3 Experience in establishing and maintaining positive relationships with the local community including with particular reference to local voluntary groups. As a further commitment to the local community, Bovingdons will continue to honour the previous EEBC discounted hourly rate bookings to the local community and not-for-profit groups.
- 4.4.4 Supporting the Council's commitment to reduce its carbon footprint and increase environmental sustainability.

Financial expectations - the Council expects a Guaranteed Annual Payment (GAP) from the Service Provider. This GAP is to be paid quarterly in arrears. In year one and two of the contract, the Service Provider will only be expected to pay 50% of the GAP. From year three, the whole GAP will be payable. The GAP will be set at £60,000 per annum and will increase with CPI every fifth year.

An Additional Annual Payment (AAP) of 15% of gross sales over and above the Service Provider's proposed AAP threshold will also be expected to be paid to the Council from the Service Provider. The AAP will be payable annually in arrears and the threshold will increase by CPI every fifth year.

- 4.5 Due to commercial sensitivity surrounding the AAP threshold, a confidential financial forecast is attached at Appendix 1.
- 4.6 The £60,000 pa Guaranteed Annual Payment (GAP) from the Service Provider is essentially the base rent. The Additional Annual Payment (AAP) of 15% of gross sales above the AAP threshold is essentially a top up, turnover rent. All figures are subject to CPI every 5 years and both the GAP and AAP payments combined ensure the Council achieves best value.
- 4.7 During the evaluation process, Bovingdons scored almost the maximum available points. Whilst they were the only bidder, this should provide considerable comfort to Committee. Officers therefore recommend that the service agreement and lease is progressed to completion in readiness for the April commencement.

## 5 Risk Assessment

Legal or other duties

### 5.1 Impact Assessment

5.1.1 TUPE does not apply and no staff are impacted.

### 5.2 Crime & Disorder

5.2.1 Not applicable

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### 5.3 Safeguarding

#### 5.3.1 Not applicable

### 5.4 Dependencies

#### 5.4.1 Not applicable

### 5.5 Other

5.5.1 The table below summarises and updates the risks identified in the July 2019 Committee report and the preferred bid has addressed these.

	Risk Area	Mitigation	Risk
1	Insufficient ECH additional booking and associated income is generated	<p>The operational financial risk is transferred to the Service Partner upon contract award alleviating the Council of this burden.</p> <p><i>Bovingdons submitted an ambitious mobilisation plan and Business Model detailing their strict regime to ensure maximum success.</i></p>	Low
2	The partner may not have the necessary expertise to make this arrangement a success	<p>During the 'Selection' stage of the tender, bidders were asked to provide evidence of their previous experience undertaking contracts of this size, nature and scale.</p> <p>Only bidders who were able to demonstrate their experience would be considered for this opportunity.</p> <p><i>Bovingdons have a very successful track record undertaking contracts of a very similar arrangements.</i></p>	Low
3	The day-to-day condition of the building may not be maintained to the required standard	<p>Responsibility for the day-to-day maintenance of the building will be transferred to the Service Partner upon contract award alleviating the Council of this burden.</p> <p><i>Within Bovingdons Business Plan, they have identified a number of keys areas of investment during their mobilisation phase. It is expected these rapid improvements will generate a significant enhancement of clients' experience of the venue.</i></p> <p><i>This further demonstrates Bovingdons commitment to success.</i></p>	Low

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4	The community use of the building may suffer as a result of the increased booking for events	The Service Partner is contractually bound to continue all current community bookings.  <i>In addition, Bovingdons will honour the previous discounted EEBC community rates.</i>	Low
5	The partner may not be successful and run into financial trouble and need to withdraw from the partnership	During the 'Selection' stage of the tender, bidders were assessed for their economic and financial standing.  <i>Bovingdons passed this assessment.</i>	Low
6	The partner organisation may be more successful than expected and as a result generate more income for themselves	The Council has high expectations of the Service Partner to ensure the success of Ewell Court House as an events venue.  The Council will benefit from an Additional Annual Payment (AAP). The AAP is based on 15% of gross sales over and above the threshold stipulated by the bidder within the Pricing Schedule. The AAP will be payable annually in arrears and the AAP threshold will increase by CPI every fifth year on the Contracts anniversary  Therefore, the Council will continue to benefit from the success of this contract.	Low
7	Local Community Groups who use Ewell Court House may be concerned.	<i>Bovingdons have a wealth of experience engaging with the local community which was clearly evidenced in their bid.</i>	Low
8	Bookings at other Council venues in the borough may suffer if bookings at Ewell Court House increases	The character, location, size, and condition of Ewell Court House means that it provides a specific niche offer which can be seen as different and complementary to the offer at other Council owned venues such as the Town Hall, Nonsuch Mansion, Community and Wellbeing Centre, Rainbow Leisure Centre and Bourne Hall.	Low

**6 Financial Implications**

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- 6.1 In July 2019, the total direct costs associated with operating Ewell Court House as a venue was almost £131,000. This was partially offset by approximately £68,000 income generated from bookings.
- 6.2 In addition, income is also generated from two (2) commercial leases situated within the building – Bambini nursery and Four Seasons. The Service Partner will manage the Four Seasons lease during their contract whilst Bambini is out of scope.
- 6.3 The Council will benefit from a Guaranteed Annual Payment (GAP) from the Service Provider of £60,000 per annum - essentially rent.
- 6.4 In years one and two of the contract, the Service Partner will only be expected to pay 50% of the GAP to support with set-up and mobilisation costs.
- 6.5 An Additional Annual Payment (AAP) will also be expected from the Service Partner. The AAP is based on 15% of gross sales over and above the threshold stipulated by the bidder. A breakdown of the estimated income this will generate is attached at confidential Appendix 1.
- 6.6 The Service Partner will also be expected to pay Business Rates and service charge.
- 6.7 **Section 151 Officer's comments:** By year three, the proposed Guaranteed Annual Payment will achieve the Council's agreed saving target for Ewell Court House, and it is expected that a direct revenue subsidy will no longer be required from the Council to operate Ewell Court House as a venue.
- 6.8 Any additional income generated from the Additional Annual Payment will make an important contribution to mitigating the Council's projected future budget deficit.

## 7 Legal Implications

- 7.1 Local Authorities are given powers under the Local Government Act 1972, subject to applicable legal constraints, to dispose of land, including sale of their freehold interest, granting a lease or assigning any unexpired term of a lease and the granting of easements. However, a disposal must be for best consideration reasonably obtainable, as set out in section 123 local Government Act 1972 (except in the case of short tenancies), unless the Secretary of State consents to the disposal.
- 7.2 A lease granted for a term of more than 7 years is not a short tenancy for the purposes of section 123 of the Local Government Act 1972, therefore, the requirement to obtain the best consideration reasonably obtainable set out in the Local Government Act 1972 applies to the lease proposed by this report.

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- 7.3 The proposals outlined in paragraph 4.6 have been assessed and are considered to represent best value.
- 7.4 The lease and service agreement need to be completed on the terms as agreed.
- 7.5 **Legal Officer's comments:** As outlined in the report and as above.

### 8 Policies, Plans & Partnerships

- 8.1 **Council's Key Priorities:** The following Key Priorities are engaged: Opportunity and Prosperity, Effective Council.
- 8.2 **Service Plans:** The matter is included within the current Service Delivery Plan.
- 8.3 **Climate & Environmental Impact of recommendations:**
  - 8.3.1 Within the quality section of the tender, bidders were asked and subsequently scored on the response to their commitment on reducing their carbon footprint and ability to source local and seasonal produce.
  - 8.3.2 This question was worth 5% of the total 40% marks available. Generally, this type of question receives 2-3% of the marks therefore demonstrating the Council's commitment to sustainable procurement.
- 8.4 **Sustainability Policy & Community Safety Implications:**
  - 8.4.1 Sustainability as per 8.3.2 above.
- 8.5 **Partnerships:**
  - 8.5.1 The Council has a long a positive track record of working in partnership with specialist organisations including GLL to undertake the day-to-day running of the Council's Leisure centre.
  - 8.5.2 The partnership between the Council and Bovingdons is already well established following a successful commercial lease arrangement of Nonsuch Mansion. It is expected that this existing relationship will only strengthen during this partnership ensuring Ewell Court House becomes a profitable events venue and continues to support the community as it has done so previously.

### 9 Background papers

- 9.1 The documents referred to in compiling this report are as follows:

#### **Previous reports:**

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- Ewell Court House, S&R Committee 30 July 2019

<https://democracy.epsom-ewell.gov.uk/documents/s13310/Ewell%20Court%20House.pdf>

### **Other papers:**

- None