

ECONOMIC INFRASTRUCTURE
PORTFOLIO LETTINGS STRATEGY
2023/24

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Executive Summary

The Economic Infrastructure team is responsible for the proactive management of Lincolnshire County Council's (LCC) portfolio of 'non-operational' properties that consist of mainly small industrial units and offices as well as five fully managed business centres spread across the county.

As of November 2022, the Council's Economic Infrastructure portfolio comprised of 242 individual leasehold properties across 25 separate estates/locations in 18 towns as follows:

- 154 Managed business centre units
- 80 Workspace units (office and light industrial)
- 8 Other

This document has a dual purpose of providing a useful guide for elected members describing the management of this portfolio **and** acts as a Procedure Manual for officers to refer to for guidance and to ensure consistent decision making.

The overarching aim of the service is to provide suitable premises to support new businesses and enhance economic prosperity and job growth across Lincolnshire whilst at the same time optimising revenue income from the Council's portfolio.

The Strategy provides a framework to ensure that the best use is made of the Council's premises. Whilst not an exhaustive list it provides guidance on:

- What uses and activities are deemed acceptable within LCC's units
- What the responsibilities of each party are in terms of repairs etc
- What criteria will be used to select (or reject) applications from suitable tenants

These management principles are consistent with the Greater Lincolnshire Local Enterprise Partnership (GLLEP) objectives of 'supporting key employment sectors' and 'attracting inward investment and growing foreign direct investment' as set out in its Strategic Economic Plan 2014 – 2030.

1. The Role of the Portfolio Team

The Portfolio Team, within the Economic Infrastructure Team, is responsible for the proactive management of LCC's portfolio of non-operational properties held for the purposes of supporting economic growth, job creation and optimising rental income.

The Team is responsible for the effective management of a portfolio of 242 commercial premises comprising 154 managed workspace units, 8 miscellaneous properties and 80 light industrial units across 25 sites in 18 towns and tenanted to (mostly) small businesses.

The portfolio includes six business centres comprising;

- 4 managed workspaces providing space for a diverse range of SMEs in Gainsborough, Lincoln, Market Deeping and Skegness
- 1 Innovation Centre targeted at the Agri-Tech sector in Holbeach
- 1 serviced office building, that is, with no shared reception facilities, in Lincoln.

The combined rental income across the whole portfolio is over £1.2million per annum before any equity share payments are deducted

Proactive management of the estate involves rent arrears management, negotiating lease renewals, new lettings and maintenance issues etc. The team provides professional advice and services to other members of the Growth Department Team and to other Council departments. For example, lettings advice and property searches.

Work stream	Activities included	LCC objectives
Agency	Letting vacant units Negotiating lease terms Instructing Legal Services	Sustaining and growing business and the economy
Estate management	Rent reviews Lease renewals Service charges Rent arrears Repairs and maintenance	Sustaining and growing business and the economy
Promotion/marketing	Strategy Social media Promoting opportunities across Lincolnshire	Sustaining and growing business and the economy

2. Our vision

Our vision is to exceed our customer's expectations in customer care and focus so that they recognise our service, experience and professionalism and we become their automatic choice when they require expertise in the field of property management, project delivery and property advice.

3. The Aims of Our Service

As well as delivering our core service as described above, we will also take a supporting role in the delivery of Economic Infrastructure projects including public realm works and other schemes designed to strengthen the growth of the Greater Lincolnshire economy.

We carry out our responsibilities in accordance with the Council's core values and beliefs as set out below:

4. Lincolnshire County Council's Values and Beliefs



5. Specific Team Objectives and Priorities

The Portfolio Team will follow specific Objectives and Strategies to contribute to the Council's Objectives and Vision whilst at the same time allowing each team member to develop their skills and observing the need to always provide a professional service. We will do this by:

- Optimising the net income generated from the Council's portfolio of non-operational investment properties whilst always recognising that the portfolio has a dual role of securing economic growth and job growth across Lincolnshire.
- Recognising the important role we play in supporting our tenants and new, start up, businesses to recover from the significant impact the corona virus pandemic has had on the local economy.
- Providing a proactive Project Management service across the EI team on a range of other public realm and economic growth projects that are not part of our existing portfolio.
- As part of the Best Value and the Asset Management Planning process the team will review its property holdings to ensure the Council's corporate planning and service delivery plans are achieved, including the sale of development sites and other surplus sites, and the investment in those properties to be retained where a suitable business case to do so is identified.

- Adopting best practice by commencing forthcoming lease renewals and rent reviews at least six months before the effective date. A list of leases due to expire in 2023/24 is included as Appendix A.
- Regularly reviewing our current working practices to ensure that we comply with relevant corporate, legal and professional responsibilities at all times. Where appropriate to assist colleagues, we will prepare concise procedure notes to ensure consistency, continuity, and efficiency.

6. Detailed Technical Guidance

In order to meet the above objectives, the Team will be regularly required to consider a number of technical, legal and economic factors. The following sections provide detailed guidance regarding these considerations.

The lease agreed with each tenants creates a legally binding contract between the Council as Landlord and the tenant and is the most important document that is to be referred to when understanding what the rights and obligations of each party are and in the event of a dispute arising. Where necessary, Legal Services Lincolnshire will be consulted for specific advice in the event of a dispute.

Each lease sets out what the landlord's and tenant's obligations (covenants) are and these often include:

1. Tenant covenants (e.g., repair responsibilities, dilapidations, paying rent on time – and enforcement / penalties for not doing)
2. Landlord covenants (e.g., providing 24hr access, a heating system – and implications of not doing)

At all times the Council will adhere to Royal Institution of Chartered Surveyors (RICS) Practice Statement – Commercial Property Management in England and Wales. 2nd Edition January 2022. (Appendix C) as well as other legislation, case law and best practice guidance. Further information regarding these obligations is provided below:

7. Tenant Selection

Detailed factors to be considered include:

7.1. Business Entity

Occupiers must be a legal entity to include sole trader, social enterprise, co-operative, franchise, partnership or corporation. For example, private limited company, public limited company. We are very clear that letting premises for community groups, sports clubs and charities etc., is not permitted across our portfolio because of the health and safety implications and lack of employment opportunities arising from such uses.

7.2. Viability

Each prospective tenant must be able to demonstrate that it is a viable concern. A number of measures will be accepted to demonstrate the feasibility and financial strength of a business including level of market demand, cash flow forecasting, profit and loss account, balance sheet and detailed Business Plan as well as previously published accounts where available.

7.3. Regulatory and Statutory Checks

All new tenant applications are carefully checked against current regulations designed to prevent money laundering and a copy of the detailed practice note we follow is attached at Appendix B.

8. Setting Rent Levels for New Lettings

All lettings will be at the local market value in the first instance. This is to ensure that the Council meets the requirements of the Local Government Act 1972 to achieve 'best consideration'.

Tenants will be selected on a number of criteria including:

- Submission of a suitable business plan
- Existing trading accounts (where available)
- Suitable professional references
- Use being acceptable for the location in terms of planning use class, tenant mix and to meet the objectives of the economic development portfolio as summarised in Appendix L and in the "Performance" section above.

Officers will have a degree of discretion when negotiating lettings, provided the rent price agreed is within the reasonable margin of the values as set out in the attached schedule (these values will be reviewed annually, and the schedule updated accordingly) (Appendix L). While this variance may differ from case to case, it is expected that in most instances it will be +/- 5-10% of the value shown

It is recognised that commercial market practice will often see tenants successfully negotiate rent free periods or stepped rents. For example, at the start of a tenancy, to reflect fit out costs. In these circumstances, a small rent-free period or phased rent may be negotiated depending on the circumstances of each case.

Any discount negotiated must be reasonable and for a clearly defined period and must be agreed by the Head of Economic Infrastructure. Once agreed, the discount should be clearly set out in writing to the tenant, included in the lease instructions and reflected in the budget forecast as necessary. Where there is a proposal to let a property outside of the above "margin", a rental offer information and reasoning proforma (Appendix. K) must be sent to the Head of Economic Infrastructure for approval.

9. Rent Review Provisions

As time passes, some rents will become slightly out of step with market rates because of changes in prices and demand during the period between rents being fixed and the next opportunity for

review. The regular reviews built into our standard leases mean that we do keep in step with the market.

Our leases are typically agreed for three or five-year terms which is also market practice. The frequency with which rents can be reviewed, and the basis of review, is stated in each lease. As a rule of thumb, leases that are for terms of five years incorporate provision for a rent review at year three. Three-year leases have provision for annual increases in line with either the Retail Price Index (RPI) or Consumer price Index (CPI).

RPI and CPI rent reviews are not generally implemented if this would push the rents to above open market rental value. Our leases generally incorporate tenant break clauses allowing tenants to serve notice and leave on either one- or three-months' notice. Therefore, it is likely that our tenants would terminate their lease if forced to pay a higher than market rent.

10. Use

10.1. General Considerations

When determining the use to which Council premises are put, the following points will be considered:

- a) It will be specifically prohibited to use Council premises for any illegal or immoral activity or any activity that could bring the reputation of the Council into disrepute.
- b) Uses that are non-business-related activities, including hobbies, domestic storage, leisure activities or events will be excluded.
- c) Detailed consideration will be given on a case-by-case basis for lettings connected with the motor trade.
- d) Careful consideration will also be required before allowing any retail uses or other uses likely to generate a high number of visits from members of the general public on health and safety grounds. For example, vehicle parking on many industrial estates is limited and the estate layouts are not compatible with the unrestricted movement of people.
- e) Use of premises solely for storage purposes of goods or materials etc. will not be permitted.
- f) Use of premises by LCC Departments will not be permitted in all but exceptional circumstances. For example, to support disaster recovery activities.
- g) When a property becomes vacant, seek a use that does not compete with any existing tenants for the first six months of any marketing period in order to ensure an optimum tenant mix. If the property remains vacant after this six-month marketing period, allow competing tenants to take a lease.

10.2. Temporary Uses

From time to time the Council may receive requests for the use of Council premises on a temporary basis. Such requests will generally be refused unless there is an exceptional business case. For example, in a disaster recovery scenario, to support an existing business entity seeking to expand and create jobs because of an immediate business need or to temporarily house staff pending completion of new premises. In such circumstances the permitted length of occupation will be for a maximum of six months at a market rent.

10.3. Planning

Reference will be given to the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 which came into effect on 1st September 2020 to determine whether an application for a tenancy will be a suitable for locating within one of the Council's industrial units, business centres or other premises. Prospective tenants will be responsible for ensuring that their proposed use meets all relevant planning laws, including seeking planning consents where necessary.

11. Multiple Occupancy and Competition

All enquiries from an existing tenant to take occupation of additional space within the same estate or business centre must take into account the need for the Council to achieve an appropriate balance of uses across each location and to accommodate a mix of businesses at their various stages of development. An important principle will be to ensure that smaller units or offices designed for "start-up" businesses are available and not "blocked" by larger, expanding businesses.

We do this by ensuring all our leases are "contracted out" of Part II of the Landlord and Tenant Act 1954, which removes the automatic right of a tenant to renew their lease. There must be a compelling economic development rationale for an existing tenant to take on additional space within the same estate or centre. It is more appropriate for the Council, through its various resources, to support the business to relocate to larger premises rather than occupy a series of smaller, individual units.

Whilst this will be considered on a case-by-case-basis, in most locations it is considered that an optimum limit would be a maximum of two units occupied in a single location by one business entity. However, in order to facilitate business growth, in exceptional circumstances and at the discretion of the Council, existing businesses within our Business Centres who wish to expand may be permitted to occupy a third room providing that the total space occupied by any business, or related businesses, shall not exceed 3,000sqft or a reasonable percentage of the overall lettable area of not more than 10% of the overall lettable area. For this purpose, businesses shall be considered to be related, even if separate legal entities, if they share one or more directors, or partners, with another business based at the Centre. Officers have discretion to review this Strategy where a Business Centre or Industrial Estate may have a large amount of vacant space.

Notwithstanding the above, the Council must avoid adopting anti-competitive practices and adhere to the principles of Competition Law.

12. Lease Term and Length of Occupation

This is perhaps the most contentious of all the detailed considerations that we make as it is a significant departure from normal estate management practice to limit the length of occupation of a business unit as a "blanket" approach and indeed, commercial landlord and tenant law makes it very difficult for a landlord to remove a tenant unless very specific grounds can be proven.

Limiting the length of all new leases to a period of, say, an initial five years would risk the Council incurring significant costs for example in non-domestic rates for empty premises, on-going repairs

and legal and marketing costs. This approach would not be desirable where estates or business centres already have a higher rate of vacant units. In other locations however, it may help to create a dynamic business environment, especially where the Council may be able to offer suitable "grow on" space as has recently been created in Market Deeping.

If this Strategy is to be adopted across the portfolio it would be desirable to introduce it for all new lettings in specific locations to be determined. To apply this Strategy retrospectively would be difficult in terms of landlord and tenant law and also very contentious.

The Council already offers very flexible "break" provisions within its leases requiring only one months' notice in the Business Centres or three months' notice elsewhere. This makes forecasting income very unpredictable and increases the Council's costs in the event that several tenants end decide to end their lease at the same time.

We offer these flexible lease terms in order to support start-up and fledgling businesses by removing the need for them to sign a lengthy contractual agreement which may be unsustainable should the business venture prove unsuccessful or, conversely, should be business quickly outgrow its space. It also avoids the Council amassing 'bad debts' and lost income through being unable to re-let a tenanted but vacated premise, etc.

13. Repairs and maintenance

Typically, the Council retains responsibility for structural repairs and repairs and maintenance to any common areas, and the tenant is responsible for internal repairs

Where LCC has repair and maintenance responsibilities, for example of common areas, we will develop an intelligent repairs and maintenance strategy in order to minimise unplanned and reactive expenditure as well as to improve the sustainability of the portfolio, maximise value, reduce running costs and mitigate risks and disabilities. In particular, we will:

- Ensure full compliance with relevant legislation, including Disability Discrimination Act and the Equality Act 2010, health and safety, Minimum Energy Efficiency Standards regulations, fire regulations and regulations dealing with legionella and asbestos.
- Ensure the Council's contractual and legal obligations are met in respect of repairs and maintenance. Obligations are detailed in leases and management agreements, as well as the Tenant Welcome Pack (Appendix I).
- Invest in assets where there is clear potential to generate income and/or increase the capital value by improving the quality of the building.

14. Service Charge

Many of our properties include areas of shared spaces for example, reception areas or service yards and access roads. Where this is the case, our leases include a provision for the Council to recover a reasonable share of the cost of maintaining and repairing these shared areas. The exact service charge provisions are set out in each lease and the Council calculates and invoices service charge amounts in

accordance with the RICS Service Charges in Commercial Property Professional Statement, 1st Edition, September 2018.

15. Approach to Negotiations

The criteria described above is not an exhaustive list of every consideration in the decision-making process of tenant selection and negotiating lease terms etc. However, it does highlight the major matters that officers must take into account and those most likely to influence our recommendation to accept a new tenant and our overall approach to negotiation of commercial matters.

These matters must be considered when reviewing all applications for new tenancies in order to ensure that the Economic Infrastructure Team meets the Council's primary objective of maximising economic growth and nurturing prosperity.

As it would be inequitable to apply any of these criteria retrospectively, we will not ask any tenant to vacate their premises where they have an existing lease just because they do not meet these criteria and an existing lease can only be brought to an end in accordance with its terms. Similarly, it may not be appropriate to review all of the following points across the whole portfolio and in some cases, they may be used as "guidance" only. This is because, across the County, the performance of the Council's portfolio varies from location to location and officers will need to apply discretion to ensure that the Council's holding costs are mitigated.

However, where demand is high from new businesses who are looking for space to grow there is a business case to review each new application against the following criteria in order to ensure that the portfolio is being used to meet the Council's objectives.

16. Optional Ancillary Accommodation

Some of our business centres include small storerooms that we allow tenants to occupy via a relatively informal "licence agreement" and payment of a suitable fee. These agreements can be ended at short notice by other party and several tenants use this space for storage purposes.

17. Officer Recommendations and Seeking Approval to Proceed

Part 3 of LCC's Constitution – Responsibility for Function – grants to the Executive Director for Environment and Economy delegated power to:

- Develop sites and premises for economic development purposes
- To procure services in accordance with the regulations and established policies and principles of LCC
- To work together with public and private sector partners to bring forward new capital projects
- To agree the sale and letting of sites within the Economic Development portfolio

In respect of new lettings, the Executive Director has further delegated decision making powers for new lettings to the Head of Economic Infrastructure.

Once an officer has successfully completed negotiations and having used their professional judgement of all relevant matters, they are ready to make a recommendation to proceed with a new letting a "Delegated Authority" proforma is submitted to the Head of Economic Infrastructure setting out the officer recommendation and including comparable evidence of market rents.

Once the Head of Economic Infrastructure has accepted the officer recommendation and signed the Delegated Authority form, the case officer can instruct Legal Services to prepare a draft lease etc.

18. What Are Main Areas of Dispute?

18.1. Car Parking

Car parking capacity at many of our business centres is regularly raised by tenants, and officers regularly manage the conduct of individual tenants to ensure car park usage is equitable. Pressure on car parking can be increased when we host meetings for third parties however, meeting room hire is an important income stream for the department, so we always strive to reach a compromise with our tenants.

18.2. Repair Obligations

Identifying who is responsible for repairs is always clearly set out in our leases and typically, the Council retains responsibility for structural repairs and repairs and maintenance to any common areas, and the tenant agrees to be responsible for internal repairs.

18.3. Service Charges

The team have recently completed a full audit of our service charge arrangements as set out in each lease in order to ensure compliance with industry best practice and the obligations set out by the RICS.

18.4. Rental Levels

In all negotiations with tenants, or in the event of a dispute arising, we always encourage existing and new tenants to seek their own legal advice at all times.

19. Marketing strategy

Vacant sites and premises are currently advertised on the Zoopla website, as well as on the Business Lincolnshire website.

Where premises have been vacant for a period of six months, we will consider the business case for appointing commercial property agents.

"For sale" and "To let" marketing boards are also erected on all our premises.

20. What does 'good' look like?

In order to provide a professional service to the Council and our tenants we offer:

- Excellent customer service. As a result of efficient management, high levels of knowledge regarding tenants and our portfolio, good rapport with tenants and contractors etc.
- High degree of flexibility. For example, to allow temporary/short term lettings for local businesses and other organisations who may need to relocate while works are undertaken at their existing premises. We can also demonstrate flexibility by negotiating leases which assist tenants wishing to grow, down-size or relocate etc.
- Good quality space. Ensuring our premises, reception areas, other common areas are well presented, maintained and decorated to give all tenants a strong impression about our professionalism and locations.
- A clear business plan. This ensures that we focus on our core objectives such as providing premises which help new businesses to be created and existing businesses to flourish and grow.
- Expertise to add value wherever we can. For example, we might dispose of a site or let premises for 'best consideration' but also to reflect an identified need to accept a lower commercial return where wider economic or community benefits make this worthwhile.
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21. How are we performing against these guidelines?

We have carried out a simple analysis of the Council's existing portfolio in order to analyse our portfolio against the criteria described above. Our analysis has found that:

All of the Council's traditional industrial estates across the county are fully let.

We have some void units at our Business Centres as follows:

- Eventus, Market Deeping 19% empty
- Mercury House, Gainsborough 30% empty

All property enquiries and opportunities to mitigate these voids are rigorously pursued including virtual tenancies, storeroom and meeting / conference room hire.

The Hub has been excluded from this analysis as it has only been handed over to LCC following completion in July 2022.

Across the industrial and office estate we have two tenants who are sports clubs and were previously granted leases. These leases expire in 2025 and 2027. The letting to non-business users has typically happened in locations or at times when it was difficult to attract commercial uses and the Council has wanted to reduce its holding costs. There may be a need to move to a more robust Strategy whereby all future applications for such uses are refused.

22. Our Targets for 2023/24

We have defined what good looks like in the areas of Strategy, Management and Rent Strategy by setting ourselves the following targets in 2023/24

22.1. Strategy

Review the Letting Strategy for the management of the commercial property estate.

TARGET: April 2023

22.2. Management

Formalisation of undocumented occupation and outdated agreements.

TARGET: June 2023

Ensure landlord AND tenant obligations are fully discharged via a programme of regular management inspections, recording findings and managing actions arising.

TARGET: March 2024

Manage landlord compliance obligations to ensure properties offered to let meet statutory requirements by commissioning condition surveys on all newly vacated premises and implement works as necessary.

TARGET: March 2024

22.3. Rent Strategy and Income

Maintain rents at market levels either by the preparation of market valuations or indexed uplifts for new lettings and at review and renewal as determined by the lease.

TARGET: Ongoing

List of Appendices

App. A – Schedule of lease renewals for 2023/2024

App. B – Anti Money Laundering Guidance

App. C – RICS Practice Standards: Commercial Property Management in England and Wales. 2nd Edition
January 2022

App. D – Template – Legal instruction template

App. E – Template – Tenant move-in sheet

App. F – Template – Tenant move-out sheet

App. G – Template – Offer sheet

App. H – Template – Commercial application form

App. I – Tenant Handbook example

App. J – Health and safety checklist

App. K – Rental offer explanation

App. L – Schedule of Rental Values and objectives for each business location

App. M – Anti Money Laundering Regulations 2007: Supervision of Estate Agency Business

App. N – Responsibilities

App O – Delegated Authority Forms

App P – Standard Lease Template – Industrial

App Q – Standard Lease Template – Office

App R - Relevant Legislation, Council Policies and Relevant Contracts

APPENDIX R

Relevant Legislation, Council Policies and Relevant Contracts

Whilst not a definitive list, the following highlights some of the legislation that affects our work:

Compulsory Purchase Act 1965

Land Compensation Act 1961

Land Compensation Act 1973

Landlord and Tenant Act 1954

Landlord and Tenant Act 1985

Landlord and Tenant Act 1988

Landlord and Tenant (covenants) Act 1996

General Data Protection Regulations/Data Protection Act 2018

Money Laundering Regulations 2017

Equality Act 2010

Relevant Council policies

Delegated authority

GLLEP Strategic Economic Plan 2014 - 2030

RICS Practice Standards - Commercial property management in England and Wales

RICS - Service Charges in Commercial Property Professional Statement. 1st Edition, September 2018.

Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

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