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SELBY DISTRICT COUNCIL

Meeting:	**POLICY REVIEW COMMITTEE**
Date:	**TUESDAY, 12 JULY 2022**
Time:	**5.00 PM**
Venue:	**COUNCIL CHAMBER - CIVIC CENTRE, DONCASTER ROAD, SELBY, YO8 9FT**
To:	**Councillor C Pearson (Chair), Councillor M Jordan (Vice-Chair), Councillor K Arthur, Councillor C Richardson, Councillor R Packham, Councillor J Shaw-Wright and Councillor M McCartney**

Supplementary Agenda

1. Industrial Units Information Report - (Pages 1 - 6)

To receive information report on the Council's industrial units, as requested by the Committee at its January 2022 meeting.

Janet Waggott

Janet Waggott, Chief Executive

Enquiries relating to this agenda, please contact Democratic Services on democraticservices@selby.gov.uk.

SELBY DISTRICT COUNCIL

TO ACT FOR OTHERS

Report Reference Number: PR/22/2

To:	**Policy Review Committee**
Date:	**12 July 2022**
Author:	**Phil Hiscott, Strategic Asset Management and Property Services Manager**
Lead Executive Member:	**Cllr David Buckle, Executive Member for Communities and Economic Development**
Lead Officer:	**Phil Hiscott, Strategic Asset Management and Property Services Manager**

Title: **Update report on the Council's industrial property portfolio**

Summary: This report provides an update on the current position in respect of the Council's commercial and industrial property portfolio and outlines proposals for improvement and future management.

Recommendations:

The Policy Review Committee is asked to note the content of the report and support the proposed approach to future improvement and management of the portfolio.

Reasons for recommendation:

To deliver the objectives of the Asset Management Strategy and to endorse the proposed improvement plans designed to bring units back into use where it is commercially and financially viable to do so.

1. Introduction and background

At its meeting on 11th January 2022 the Policy Review Committee requested an information report on the current status of the Council's industrial property portfolio.

By way of background, Selby District Council (SDC) owns at 50% stake in 40 industrial units across four sites (two in Sherburn in Elmet and two in Selby). All of the sites are subject to a 50% claim of beneficial interest by North Yorkshire County Council (NYCC) and NYCC receive 50% of the rents for the sites.

The units are managed by SDC on behalf of the two authorities and are let on leases or licences with the rent reviewed in line with market rates on renewal.

The units were originally developed as ‘starter’ units, but over the last 10 to 15 years have become home to a number of established businesses.

The Council’s Asset Management Strategy 2015 – 2018 (AMS) sets out a three strategic objectives for council owned assets as follows:

i. Assets should be used in a sustainable way to support the Council's strategic objectives.

ii. The Council should seek to maximise the use of assets for the benefit of the local community.

iii. We should seek to ensure our assets are fit for purpose and maintained to the required standard.

The strategic action plan incorporated within the AMS required the Council to undertake a review of the future use of vacant premises and land and those with an Internal Rate of Return (IRR) of less than 3% return on investment; and further, specifically required all leases for our industrial units to be reviewed by 2017.

The Property Management Team undertook a full review of the tenure arrangements pertaining to the industrial units in 2017. The review concluded that the units were let on a mixture of licence agreements (Selby units) and three-year leases (Sherburn units) and identified three of the longer standing tenants did not have formal agreements in place.

The Council’s approach has always been to rent our industrial units at a commercial rate, with reviews every three years based on valuations; however, the aforementioned review identified that rent reviews had not occurred in line with this arrangement.

As a result, the Property Management Team commissioned valuation reports in May 2017 to inform the rental values to be charged in the lease renewals due during 2017 and has continued this process for all subsequent lettings.

In addition to the requirements in respect of the tenure arrangements, the AMS identified that stock condition surveys had been completed for all four sites and the final strategy contained budget costings for future maintenance works through to 2024/25 to assist with financial planning through the Medium-Term Financial Strategy (MTFS).

The AMS further identified that at the time of its drafting, all units had been assessed for energy performance and issued with an Energy Performance Certificate (EPC). The AMS did however note that whilst the units were fit for

purpose at the time of issue (2015) future legislation may require upgrade to their energy performance to ensure continued use.
The AMS concluded in this regard with a recommendation that any such works be deferred until such time as they were required under legislation; and no allowance was made within the MTFS at that time.

2. The Report

In March 2015, Government introduced the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015.

Subsequently amended in June 2016, the Regulations, colloquially referred to as the Minimum Energy Efficiency Standards or “MEES Regs” imposed legislative minimum energy efficiency requirements for all private rented sector domestic and private rented non-domestic properties.

For the purposes of clarity, within the context of the Regulations, it should be noted the Council’s social housing portfolio is currently exempt from the provisions contained therein; however our non-domestic stock is not.

From 1st April 2018, when the non-domestic element of the Regulations came into force, granting new tenancies for properties which fall below the prescribed minimum levels of efficiency (‘E’) (termed sub-standard property in the Regulations) was prohibited.

Existing tenancies are also covered by the Regulations however the Council has been able to continue with these arrangements in the intervening period since the secondary element of the legislation which requires all existing tenancies of ‘sub-standard property’ to cease takes effect on 1st April 2023.

Failure to adhere to the requirements of the legislation is subject to financial penalties ranging from £5,000 to £150,000.

It is worth highlighting at this point that further amendments to the Regulations are proposed to come into effect on 1st April 2027 and 1st April 2030 respectively which seek to improve minimum energy efficiency standards on non-domestic properties to ‘C’ and subsequently ‘B’.

2.1 Current status

As highlighted previously, the Council currently owns a 50% stake in 40 industrial units across four distinct sites as follows:

<u>Selby</u>

- Prospect Centre: 12 units
- Vivars Centre: 13 units

<u>Sherburn in Elmet</u>

- Swordfish Way: 7 units
- Sherburn Enterprise Centre: 8 units

Of these sites, those located within Selby are of primary concern since these do not meet the minimum requirements set out under MEES 2015, thus we have been unable to create new tenancies since its introduction on 1st April 2018.

Business expansion, relocation and failures over the intervening period have resulted in increasing vacancy rates within both sites, such that occupancy levels are currently as follows:

- Prospect Centre: 58% occupied
- Vivars Centre: 31% occupied

More positively, the units located in Sherburn in Elmet continue to be extremely popular and since their current EPC ratings exceed the minimum MEES 2015 requirements, we continue to let these units without issue.

Occupancy rates for the Sherburn in Elmet sites currently stand at:

- Swordfish Way: 100% occupied
- Sherburn Enterprise Centre: 87.5% occupied*

*Work to upgrade the single un-occupied unit at Sherburn Enterprise Centre to a lettable standard is currently underway.

2.2 Legislative changes

Recognising the impact of MEES 2015 on the Council's ability to re-let our industrial properties moving forwards, surveys were commissioned of the Selby sites in 2019 and the information utilised to formulate a bid for funding as part of the 2020/21 budget cycle.

Although approved by Council in February 2020, the onset of the global pandemic and subsequent restrictions from March 2020, coupled with the consequent backlog of work, resulted in improvements to the sites being postponed until 2021/2022 financial year.

Whilst acknowledging this resulted in income loss for the Council, the delay was nonetheless fortuitous since in March 2021, the Government launched a consultation seeking views on proposals to amend the MEES 2015 regulations to mandate even greater levels of energy efficiency in non-domestic rented property in April 2027 and again in April 2030.

Although still to be formally confirmed in revised legislation, the Government has made clear its intention to require all non-domestic rented property to obtain a minimum 'B' energy efficiency rating by 1st April 2030, with a proposed interim step of 'C' by 1st April 2027.

These increases in mandated energy efficiency requirements present significant challenges for the Council, particularly in relation to our Selby sites which were constructed approximately 30 years ago and thus may struggle to achieve the minimum ‘B’ rating due to their inherent construction limitations.

In addition to legislative changes around energy performance requirements, it is also worth noting the impact the forthcoming changes to Local Government in April 2023 will have on how these sites are managed and/or developed moving forwards.

The improvement plans outlined below have been devised with Local Government Re-organisation (LGR) in mind and seek to provide an approach to minimising the impact of legislative changes in the short-term, whilst allowing the new authority time to develop its own asset management approach.

2.3 Improvement plans

The Government’s intention to introduce further energy efficiency requirements in non-domestic property has necessitated revisiting our 2019 proposals since the works proposed were only intended to achieve the minimum MEES 2015 requirements.

To establish whether the sites can be made to achieve the increased standards proposed, earlier this year we commissioned full energy audits of the two Selby sites.

The audits confirmed earlier conclusions that both sites could be made to achieve the minimum ‘E’ rating required under MEES 2015 but delivering a ‘C’ and subsequently a ‘B’ EPC rating may not be feasible even with substantial investment.

Following receipt of the audits, we have been working with the auditor to determine specifically what works will have the greatest impact on the current EPC ratings and exploring what improvements we can realistically implement to achieve a minimum ‘C’ EPC rating so the sites can remain in operation until at least 2030. Funding to undertake these works is secured in the 2022/23 budget.

These discussions are currently ongoing at the time of writing but we are actively working on proposals to improve one of the two sites (Prospect Centre) to achieve at least MEES 2015 requirements before 31st March 2023 to ensure the Council is not required to serve notice on its current tenants.

In parallel, discussions with tenants in the Vivars Centre are also underway to facilitate a transfer of their businesses to the newly upgraded Prospect Centre once completed.

It is not proposed at this juncture to seek to upgrade the Vivars Centre to achieve the minimum MEES 2015 requirements, though the site will continue to be used as the base for the Council’s Property Services team and storage of materials pending a review of the new authority’s requirements post LGR.

As highlighted earlier in the report, the sites in Sherburn in Elmet currently achieve the minimum requirements of MEES 2015 and investment requirements to upgrade these properties to achieve increased energy efficiency standards mandated by the proposed changes in 2027 and 2030 respectively will need to be considered by the new authority post LGR.

3. Conclusion

In summary, whilst the Council's industrial property portfolio faces some significant challenges in terms of being able to meet future energy efficiency requirements, the investment plans outlined provide a realistic and economically viable approach to minimising the impact of forthcoming changes.

Demand for light industrial/storage type units, particularly of the type currently owned by the Council in Sherburn in Elmet remains extremely strong and the new authority will need to determine whether investment in refurbishment or renewal of the sites in the medium-term provides the most economically advantageous position moving forwards.

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