
REPORT FOR: CABINET

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| Date of Meeting: | 23 May 2017 |
| Subject: | Terms of occupation of the property in Methuen Road by Flash Musicals, Methuen Road, Edgware |
| Key Decision: | No |
| Responsible Officer: | Venetia Reid-Baptiste , Divisional Director of Commissioning and Commercial Services Bernie Flaherty , Director Adults Social Services |
| Portfolio Holder: | Councillor Keith Ferry, Deputy Leader and Portfolio Holder Business, Planning and Regeneration |
| Exempt: | No, except for Appendices 1- 2 to this report which are exempt under paragraph 3 of Schedule 12a of the Local Government Act 1972 9as amended) in that they include information relating to the financial or business affairs of any particular person (including the authority holding the information) |
| Decision subject to Call-in: | Yes |
| Wards affected: | Edgware |
| Enclosures: | Appendix 1 - Business case - EXEMPT Appendix 2 - Service level Agreement - EXEMPT |

Section 1 – Summary and Recommendations

This report sets out the basis of a lease restructure with Flash Musicals in respect of their occupation of the property in Methuen Road to enable Flash Musicals to provide services to clients with learning disabilities.

Recommendations:

Cabinet is requested to agree to the surrender of the existing lease granted to the trustees of Flash Musicals in respect of their occupation of the property at Methuen Road and the grant of a new lease for 15 years on terms set out in the report, to enable the provision of services by Flash Musicals to clients with learning disabilities in accordance with the attached business case prepared by Director of Adult Social Services.

Reason: (For recommendation)

To enable a lease to be granted at a peppercorn in return for services to the council equal to or in excess of the current rental value of £26,000 per annum.

Section 2 – Report

1. Introduction

- 1.1. The property in Methuen Road comprises a youth theatre and associated rooms and was previously held in the HRA. Flash Musicals currently occupy the property under a 10 year, contracted out lease from 29 September 2013 at a then market rent of £26,000 which was discounted to £18,500 pa due to capital works to be undertaken within the first 5 years of the term. Under this lease Flash Musicals paid £7,000 in rent and the remainder of the rent was covered by voluntary sector grants and services delivered to Adult Services under an SLA. The lease includes the option for the landlord to terminate the lease after 5 years and if the tenant are in breach of the SLA.
- 1.2. During 2015-2016 this property was transferred to the General Fund and proposals were drawn up for Flash Musicals to occupy the property on different terms subject to the provision of services set out in the business case attached at Appendix 1.

2. The Proposal

- 2.1. The proposal is for the Council and Flash Musicals to undertake a surrender of the current lease and the grant of a new lease (backdated to 25th December 2015 to coincide with the property transfer) to enable Flash Musicals to deliver services for Adult Social Care in lieu of rent.

Flash Musicals would deliver non-traditional care and support to young learning disability clients in line with national incentives and national good practice around vulnerable clients to provide them with choices other than a day centre which are primarily designed for elderly clients. The terms of the service delivery are set out in Service Level Agreement in Appendix 2.

3. Options considered

3.1. Three options have been considered.

3.2. **Option 1** - Retain the existing lease structure with no specific provision in the SLA for the provision of service to clients with learning disabilities.

3.3. **Option 2** - Terminate the existing lease to enable the site to be utilised for residential development with community facilities incorporated within the development.

3.4. **Option 3** - Take a surrender of the existing lease and grant a new 15 year lease at a peppercorn rent and contracted out of the security of Tenure provisions of the Landlord and Tenant Act 1954 to enable the property to be utilised in accordance with the attached business case in part delivering services to clients with learning disabilities for which no budget currently exists. Under this option the following terms would apply:

- Full repairing and insuring, the tenant to reimburse the insurance premium.
- No alienation permitted
- No structural alterations permitted, internal alterations of the property permitted only with landlord's consent not to be unreasonably refused.
- The user clause to permit youth club, theatrical and musical productions, musical day theatre for learning disability clients, day care and/or nursery, meeting room and additional activities which benefit the community.
- The Council is to have the right to determine the lease on breach of the covenant requiring the tenant to provide a musical day theatre for learning disability clients under the SLA. The Council is also to have the right to determine the lease every 5th year should the Council require to redevelop the land. The Council would, in respect of this break clause discuss possible options for relocation.
- The tenant is to have the right to break the lease.

Option 3 is proposed as it meets the objectives required.

4. Resources

4.1. This lease will continue to be managed by Corporate Estate, in its remit as Corporate Landlord.

4.2. Adults Social Care will have responsibility for supporting the clients that take up the services provided by Flash Musicals, and will monitor the SLA

to ensure that the agreed service levels and obligations are being met by Flash Musicals.

5. Performance Issues

5.1. The Director of Adults Social Care will ensure the monitoring of the delivery of services under the SLA and will report annually to the Divisional Director Commissioning and Commercial Services, as Corporate Landlord as to the monetary value of the services provided by Flash Musicals to the Council to ensure they equal the rental value of the property.

6. Environmental Implications

6.1. Not applicable.

7. Risk Management Implications

7.1. The detailed risks in respect of the project are set out within the Business Plan in Appendix 1.

8. Legal Implications

8.1. In October 2015 a lease was granted to the trustees of Flash Musicals for the occupation of the community premises in Methuen Road Edgware for a term years from and including 29 September 2013 and ending on and including, 28 September 2023. The lease is excluded from the Landlord and Tenant Act 1954 ('1954 Act').

8.2. Section 123 Local Government Act 1972 places an obligation on local authorities to obtain the best consideration reasonably obtainable for leases over 7 years in length, unless the general consent applies which it does here because it can be shown that the letting is for the public benefit in terms of community and cultural value. However, there needs to be periodic valuation to quantify the value of such community benefit.

8.3. The provisions of the Council's constitution still however apply to this disposal and the authority of the portfolio holder pursuant to Part 3A is required to authorise this disposal.

9. Financial Implications

9.1. The current rental value of the property is considered to be £26,000 per annum and the business case states that the services to be delivered will equal or exceed the rental value.

9.2. The surrender of the existing lease and the granting of the new lease, backdated to 25th December 2015 to coincide with the property swap, will require the invoices for rent for the period to 24th June 2017 totalling

£10,500 to be written off against the bad debt provision, with an element written back as services, rather than rent, were due under the terms of the arrangement.

9.3. All historic arrears were settled in January 2016.

9.4. The Divisional Director of Commissioning and Commercial Services has reviewed the business case as the Corporate Landlord and confirmed that it represents best consideration in respect of the current rental value of the premises and will continue to receive monitoring reports for Adults Social Care to ensure the required reciprocal value of services is being delivered.

10. Equalities Implications / Public Sector Duty

10.1. An equalities impact Assessment has not been carried out in respect of the property letting element. An EQIA was carried out in relation to the service delivery and in keeping with the usual practice in Adults Social Services.

11. Council Priorities

11.1. The Corporate Plan 2016-2019, entitled "Harrow Ambition Plan 2020" sets out the council's vision of "Working together to make a difference for the vulnerable, communities, families and businesses". The council's strategy (priorities) to deliver its vision, between now and 2020 is to:

- Build a Better Harrow
- Be more Business-Like and Business Friendly
- Protect the Most Vulnerable and Support Families.

11.2. The Council's vision and the corporate priorities have been taken into account when developing the proposal. In particular, the project supports the priorities around protecting the most vulnerable as it increase the provision of services.

Section 3 - Statutory Officer Clearance

Name: Donna Edwards

on behalf of the
Chief Financial Officer

Date: 11 May 2017

Name: Paul Doctors

on behalf of the
Monitoring Officer

Date: 18 April 2017

Ward Councillors notified:

Yes

**EqIA carried out:
EqIA cleared by:**

No. This report only concerns the amendment of the terms of occupation of a Council property and so no EqIA is required.

Section 4 - Contact Details and Background Papers

Contact: Belinda Prichard
SM Valuation and Estate Management
Community Directorate
DDI: 020 8424 9330
belinda.prichard@harrow.gov.uk

Background Papers: None.

**Call-In Waived by the
Chairman of Overview
and Scrutiny Committee**

NOT APPLICABLE

[Call-in applies]