

Report for: Cabinet Member Signing – 10 November 2022

Title: Property Arrangements to Allow Occupation of a Health Centre at Tottenham Hale

Report authorised by: David Joyce, Director of Placemaking and Housing

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Ward(s) affected: Tottenham Hale

**Report for Key/
Non Key Decision:** Key Decision

1. Describe the issue under consideration

- 1.1. In January 2022, Cabinet took a decision to take a long lease for a term of 999 years of the Health Centre area (in shell and core) from TH Welbourne Limited (“THWL”) prior to practical completion of the Welbourne site development; and to grant a lease of the Health Centre to HealthLink for a term of 125 years, prior to practical completion of the Welbourne site development and subject to THWL granting the Council a lease of the Health Centre unit as set out. The deal with HealthLink subsequently fell away.
- 1.2. The North London Integrated Care Service (“NLICS”) has secured funding to fit out the Welbourne Health Centre, which would allow the GPs to take a lease of the Health Centre unit. The funding conditions require spend by 31 March 2023. To achieve this, site access is required for the building contractor in early November 2022.
- 1.3. This report seeks authority to grant a new 20 year lease (with tenant’s option to extend by a further 16 years) to the Partners of the Lawrence House Group Practice (“the GPs”) together with a licence to occupy & alter to facilitate access.
- 1.4. In order to be able to grant both the licence and the lease to the GPs, the Council will enter into a 999 year superior lease with THWL prior to practical completion as the entire building, of which the health centre unit forms part, has not yet reached practical completion.

2. Recommendations

The Cabinet Member is recommended:

- 2.1. To agree to the Council taking a 999 year lease at a rent (set out in the exempt report) of the Ground and First Floor premises (in shell and core) known as Unit 1 Walter Tull building from TH Welbourne Limited (THWL) prior to practical completion of the Welbourne site development; and to subsequently grant a Lease of those premises for an initial term of 20 to the GPs together with a licence

to alter based on the Heads of Terms (set out in exempt Appendix 2). The initial rent of the premises is set out in the exempt report.

- 2.2. To agree to delegate authority to the Director of Placemaking and Housing to agree the final terms of each agreement.

3. Reasons for decision

- 3.1. In 2015, it was identified, by the NHS England Strategic Plan, that by 2025 a health facility providing services for 25,000 patients is needed within the Tottenham Hale locality.
- 3.2. Planning permission for the Welbourne site was granted in 2019 to provide 131 residential units and a health centre.
- 3.3. NLICS secured funding from NHS England to fit out the health centre. The funding must be spent by 31 March 2023. To achieve this, site access is required for the contractor by early November 2022. NLICS advise if these conditions are not met, it is unlikely they will be able to secure alternative funding in the future.
- 3.4. The Welbourne Centre development has encountered several delays - archaeological findings on site; covid delays and availability of materials. This has pushed the practical completion date out to a target date of April 2023.
- 3.5. THWL advise that they can offer sectional completion of the health centre to facilitate early access to commence the fit out works in November 2022, inline with NLIC requirements.
- 3.6. The value of the lease to be granted to the GPs will be confirmed by a Single Independent Valuation. The Basis of the annual rent payable is a fair reflection of Market Rent and will comply with “best consideration”.

4. Alternative options considered

- 4.1. No alternative site has been identified for the Health Centre - no other properties of a similar size and location have been identified.
- 4.2. NLIC advise that their funding is tied to this specific site.
- 4.3. This is the only contractual method available to the Council to achieve the timescales stipulated by NLICS.

5. Risks and Issues

- 5.1. THWL need to agree sectional completion with their contractor United Living (“UL”) to enable the grant of the 999 year lease to the Council. UL are projecting a delayed handover of the whole building in April 2023. It is unlikely that handover can take place any earlier due to UL's lack of on-site resource and delays with materials deliveries. THWL advise that sectional completion has been agreed, but this is not yet under contract.

- 5.2. By taking a lease early of the Health Centre unit from THWL under the Sale and Purchase Agreement the Council will have accepted that that part of the building has been practically completed, this limits the Council's control should inherent defects be discovered.
- 5.3. Due to the number and complexity of the legal documents required there is a risk that the parties are not able to reach agreement within the timescale required.
- 5.4. The Sale and Purchase Agreement between the Council and THWL prohibits the opening of the health centre until the whole building has reached practical completion. There is a low risk that the building may never reach practical completion and NLICS will not receive the benefit of their investment. NLICS have requested that the Council reimburse the GPs costs if the building has not reached practical completion by 31 December 2026.
- 5.5. In agreeing to this request, the Council is taking on a significant risk that in the event of practical completion not being achieved it will be required to repay the GPs their costs, The Council has remedies under its Sale and Purchase Agreement with THWL that allow for the completion of the building by the Council itself should that be necessary. To offset the payment should it arise, the Council will be in possession of a state of the art health centre that it can use/sell/lease.
- 5.6. The NLICS design requires minor town planning amendments to the existing consent which can be dealt with as a non-material amendment planning application. This application has been lodged and the Planning Authority are currently considering it. If this isn't agreed, then the NLICS design will need to change but this is considered low risk and is borne by NLICS.
- 5.7. The Heads of Terms of the lease have been agreed and negotiations are underway on agreeing the Lease.

6. Background information

- 6.1. On 21 March 2017, the Council entered into a Strategic Development Partnership (SDP) agreement with TH Ferry Island Limited Partnership (an Argent Related entity). The agreement contains an obligation for TH Ferry Island Limited Partnership to deliver a health care facility to shell and core standard. On 2 April 2019, Cabinet approved the acquisition of the Welbourne site, via a sale and purchase agreement ("Sale and Purchase Agreement"), from THWL to provide 131 residential units and a health centre (to shell & core only). The original timescale to provide the health centre in shell and core and to obtain NHS funding was June 2021.
- 6.2. Planning consent was granted in May 2019. This is part of a wider consent for a number of sites to be developed by THWL within the area. There is a condition within the s106 agreement attached to this planning permission which states that not more than 80% of the market units in Ferry Island are to be occupied until (a) all of the affordable housing units within the Welbourne Centre have been constructed and made ready for residential occupation, and (b) all of these affordable units have been transferred to the Council (or affordable housing provider(s)).

- 6.3. The project has encountered several delays - archaeological findings on site; covid delays and availability of materials. The longstop date for practical completion of the whole building was 24/08/2022. Practical completion is currently targeted for April 2023.
- 6.4. NLICS lost their 2021/22 allocation of funding for this project in early 2022 and this is an opportunity to review their delivery plan. They have been allocated the funding again for the financial year 2022/23 and have opted for a structure where the GP's take a lease of the Health Centre from the Council and for the GP to deliver the fit out works under a license to occupy and alter.

7. Contribution to strategic outcomes

- 7.1. The recommendations will contribute the following:

Place – a place with strong, resilient, and connected communities where people can lead active and healthy lives in an environment that is safe, clean, and green

- 7.2. The Welbourne Health Centre will provide a much needed health facility to support the health of the growing population in Tottenham Hale.

8. Statutory Officer Comments (Director of Finance (procurement), Head of Legal and Governance, Equalities)

8.1. Finance

- 8.1.1. The recommendation of the report is to delegate to the Director of Placemaking and Housing, authority to finalise the documentation necessary to grant take a lease from AR, to grant a lease to the GP's and a license for alterations.
- 8.1.2. The full suite of documents necessary for the transaction are not yet in a fully agreed form. However, the key commercial terms that relate to the level of rent, the rent review mechanism and the level of service charge and its review arrangements are agreed.
- 8.1.3. There is a request from NCILS that in the event that the building does not reach practical completion by 31st December 2026 that the Council will meet its costs in relation to the fit out of the centre. If this is agreed, it would be classed as a contingent liability and disclosed as a note to the Council's accounts. Should the building not reach practical completion and the payment is required to be made it will be a call on the Council's capital programme.

8.2. Strategic Procurement

- 7.1.1 Procurement comments not applicable for property and land transactions as they sit outside of the Procurement Contract Regulations.

8.3. Legal

- 8.3.1. As set out in this report the Council on 21 March 2017 entered into an Agreement with TH Ferry Island Limited Partnership to develop various sites in the Tottenham

Hale area. On 9 May 2019 the Council agreed to acquire the affordable housing units and commercial units that are being constructed on the Welbourne site. Following practical completion of the building the Council will take the lease of the whole site back from THWL (the Argent entity delivering the Welbourne site development). That lease will be merged back with the Council's freehold title.

8.3.2. This report seeks authority for the Council to take a 999 lease early of part and prior to practical completion of the Health Centre part of the development (agreed by Cabinet on 18 January 2022) so it can grant the lease to the GPs of the health centre. Both leases are being granted prior to practical completion of the whole development on the Welbourne site.

8.3.3. The Council can grant the Lease to the GP as it has the power under section 123 of the Local Government Act 1972 to dispose of the property in any manner it wishes but must obtain best consideration otherwise the consent of the secretary of state is required. The report states that best consideration will be obtained.

8.4. Equalities

8.4.1. The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex, and sexual orientation. Marriage and civil partnership status apply to the first part of the duty.

8.4.2. Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.

8.4.3. The proposal will enable a new health facility to be established in Tottenham Hale. We know that this is a locality in which individuals with protected characteristics are overrepresented as compared to the wider borough, London, and England. Significantly, the local area has a high proportion of residents with disabilities and long-term health conditions that adversely impact their ability to conduct day-to-day activities. This decision will ultimately result in improvements to access to healthcare in the area and as such is expected to have a positive impact on those with protected characteristics.

8.4.4. Results of previous consultation exercises suggest that primary healthcare facilities are a priority for local residents. This indicates that this is a currently under-served community. The proposal will therefore enable the Council to meet its Public Sector Equality Duty to eliminate discrimination.

9. Use of Appendices

Appendix 1: Cabinet Report Re: Welbourne Health Centre, approval to sign side agreements with the Haringey Clinical Commissioning Group and Healthlink – 18 January 2022

Appendix 2: Heads of Terms (exempt)

10. Local Government (Access to Information) Act 1985

The report contains exempt information which is **not for publication**. The exempt information is under the following category (identified in amended schedule 12A of the Local Government Act 1972):-

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.