

Cabinet – Urgent decision taken in accordance with Part 4.5 of the Constitution paragraph 17.02

Item	Decision	Implementation date	Decision taker	Reason for urgency	Consent of Mayor
Occupancy of Hollybank House by Walsall Healthcare Trust	<ol style="list-style-type: none"> 1. To approve the grant of a Tenancy at Will of Hollybank House to Walsall Healthcare NHS Trust at a rent of £90,300 for the provision of inpatient beds as part of the system response to the Covid-19 pandemic; 2. To approve that the costs incurred by Walsall Council to operationalise the building as an inpatient unit will be re-charged to the Walsall Healthcare NHS Trust; 3. To note that a further report will be brought to Cabinet seeking approval to grant a longer term lease of the property to Walsall Healthcare NHS Trust, subject to approval of a business case and agreement of lease terms; 4. It is anticipated that the tenancy at will may remain in place for 	3 April 2020	Leader of the Council	Walsall Healthcare Trust face unprecedented pressures on our hospital services in Walsall due to the Covid 19 pandemic. Hospital resources are stretched and further demand is anticipated with a peak of demand for hospital services expected in mid-April. Urgent approval is required for Walsall Healthcare Trust to obtain occupancy of Hollybank House under a Tenancy of Will arrangement from Monday 6 th April so that they can transfer their Stroke Rehab patients off the Walsall Manor site to create capacity for urgent Covid 19 patients.	Received on DATE 03/04/20 TIME 12.00

	<p>the duration of the Covid-19 pandemic or until such time, if sooner, that a lease is agreed for a longer term arrangement, if Cabinet should decide such a lease is appropriate.</p>				
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Signed:.....Councillor M.A. Bird, Leader of the Council Date:..3 April 2020

(Note: The above decision is not eligible for call-in in accordance with the following paragraph of Part 4.5 of the Constitution – Overview and Scrutiny Procedure Rules:

“17.02 Call-In - Decisions that are urgent

- (a) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council’s or the public’s interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Mayor of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Mayor, the Deputy Mayor’s consent shall be required. In the absence of both, the Chief Executive or his/her nominee’s consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

- (b) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.”)

Decision to be taken by the Leader in accordance with Part 4.5 Para 17.02 of the Walsall Council Constitution – Decisions that are urgent

Occupancy of Hollybank House by Walsall Healthcare Trust

Portfolio: Leader
Councillor Rose Martin
Councillor Adrian Andrew

Related portfolios: All

Service: Adult Social Care

Wards: All

Key decision: Yes

Forward plan: No

1. Aim

- 1.1 To grant an urgent tenancy at will of Hollybank House to Walsall Healthcare NHS Trust (WHT) for the provision of inpatient beds as part of the system response to the Covid-19 pandemic.

2. Summary

- 2.1. Walsall Healthcare Trust face unprecedented pressures on our hospital services in Walsall due to the Covid 19 pandemic. Hospital resources are stretched and further demand is anticipated with a peak of demand for hospital services expected in mid-April. Urgent approval is required for Walsall Healthcare Trust to obtain occupancy of Hollybank House under a Tenancy of Will arrangement from Monday 6th April so that they can transfer their Stroke Rehab patients off the Walsall Manor site to create capacity for urgent Covid 19 patients.
- 2.2. The transfer of moving rehabilitation patients out of the Manor Hospital will serve two purposes: (i) to free up space for Covid patients and (ii) to protect rehabilitation patients from proximity to Covid patients
- 2.3. Outcomes for patients are maximised when stroke rehabilitation services are moved out of an acute hospital setting into the community. Whilst based at Manor Hospital, the stroke rehabilitation service is vulnerable to risks associated with capacity pressures and infection from Covid-19.
- 2.4. The associated patient safety and quality risks are increased falls, increased infection control incidents, reduced therapy input and increased staff sickness.

- 2.5. The Intermediate Care Service (health and care staff team) is ordinarily based at Hollybank House, this was a temporary arrangement that was put in place two years ago whilst long term accommodation issues could be addressed. Since the COVID-19 outbreak, the ICS team has moved out of Hollybank to be with colleagues at Blakenall. The reason for this was to aid integrated working during the crisis. Alternative office-based accommodation at Blakenall was the longer term aspiration and the plan to move quicker on that action was directly linked to the need to progress urgent beds to release capacity at the hospital site at The Manor.
- 2.6. The urgent situation arising from the COVID-19 pandemic has meant that actions will need to be approved under emergency powers. The Council's emergency powers permit urgent decisions to be taken using the urgency provisions contained in Part 4.5 Paragraph 17.02 of the Council's Constitution. These provisions allow for urgent decisions to be taken that are exempt from call-in if any delay seriously prejudices the Councils or the public's interest. In line with the guidance as set out in the Constitution the permission to use these provisions has been sought, and granted, from the Mayor, Councillor Paul Bott, who received a copy of the report and a personal explanation of the matters as set out in this report.
- 2.7. Once the COVID-19 issues have passed, the Council's officers intend to continue negotiations with WHT in relation to the longer terms needs for rehabilitation space and the use of Hollybank.

3. Recommendations

- 3.1 To approve the grant of a Tenancy at Will of Hollybank House to Walsall Healthcare NHS Trust at a rent of £90,300 for the provision of inpatient beds as part of the system response to the Covid-19 pandemic;
- 3.2 To approve that the costs incurred by Walsall Council to operationalise the building as an inpatient unit will be re-charged to the Walsall Healthcare NHS Trust;
- 3.3 To note that a further report will be brought to Cabinet seeking approval to grant a longer term lease of the property to Walsall Healthcare NHS Trust, subject to approval of a business case and agreement of lease terms;
- 3.4 It is anticipated that the tenancy at will may remain in place for the duration of the Covid-19 pandemic or until such time, if sooner, that a lease is agreed for a longer term arrangement, if Cabinet should decide such a lease is appropriate.

4. Report detail - Know

- 4.1. The proposal to relocate stroke rehabilitation services from Walsall Manor Hospital to Hollybank House has been discussed over several months between colleagues at Walsall Council and WHT. Most recently, it was reported as progressing at the 16 January 2020 Health and Social Care Overview and Scrutiny Committee.
- 4.2. Originally, the rationale for the proposal was based on the understanding that outcomes for patients are maximised when stroke rehabilitation services are moved out of an acute hospital setting into the community. Whilst based at Manor

Hospital, the stroke rehabilitation service is vulnerable to risks associated with capacity pressures. The associated patient safety and quality risks are increased falls, increased infection control incidents, reduced therapy input and increased staff sickness.

- 4.3. However, due to the current Covid-19 pandemic, there is an urgent need to create additional capacity on the acute hospital site due to the surge in activity.
- 4.4. National guidance in response to the Covid-19 outbreak, released on 19 March 2020, requires all patients to be discharged from the acute hospital within three hours of being declared as medically stable.
- 4.5. This is in response to the expected surge in demand for acute based bed services and will serve to minimise the significantly increased infection risks associated with patients that are undertaking rehabilitation or complex discharge which is exacerbated where these patient groups share ward space with other medical presentations. The ward size at the Manor hospital is greater than the current number of patients in this group.
- 4.6. Current predictions indicate that Walsall Manor Hospital can expect a surge in Covid-19 demand from now with the first predicted peak by mid-April. It is for this reason that Walsall Healthcare is requesting immediate occupancy of Hollybank House.
- 4.7. Several organisations including Walsall Council, Walsall Healthcare NHS Trust and Walsall Housing Group have been involved in discussions to operationalise Hollybank House as an inpatient unit over recent days and it is believed that the unit will be able to accept patients from as early as week commencing Monday 6th April. To this end the following tasks have already been achieved, subject to a decision of the Council under emergency powers to grant a tenancy at will:
 - CQC registration is complete with Hollybank House being registered as an emergency satellite site for Walsall Healthcare NHS Trust;
 - The Intermediate Care Service (ICS) has been relocated to Blakenall Village Centre;
 - All statutory risk assessments including water/legionella have been undertaken;
 - All furniture and equipment have been re-assembled and located in patient rooms;
 - All electrics have been inspected and PAT testing completed;
 - The kitchen and laundry facilities are being recommissioned including associated gas works undertaken;
 - Arrangements have been made for cleaning and catering to be provided by Walsall Council, this will be recharged to Walsall Healthcare Trust;
 - All new protocols and clinical risk assessments have been completed;
 - Initial fire risk assessment has been undertaken with a site visit scheduled for after the services transfer;
 - Security risk assessment complete.
- 4.8. These actions have been coordinated jointly between colleagues at Walsall Together, the Integrated Care Partnership for Walsall, and Adult Social Care. All costs incurred by Walsall Council will be re-charged to Walsall Healthcare NHS

Trust and, subject to later Cabinet approval and a satisfactory business case, Walsall Healthcare NHS Trust intends to enter into a lease for occupancy of Hollybank House at current market value (subject to agreement of all other lease terms). The tenancy at will is likely to remain in place for the duration of the Covid-19 pandemic or until such earlier date that more permanent arrangements are agreed between the relevant parties over the next three to six months if Cabinet consider that appropriate.

- 4.9. There are meetings scheduled between colleagues from Walsall Council and WHT to discuss the detail of such arrangements and to confirm the governance processes required.

Council Corporate Plan priorities

- 4.9. This proposal supports the Council's urgent and emergency response to the Covid 19 pandemic and the role the Council plays in the wider system of health and care for the people of Walsall.
- 4.10. This proposal links to the Council's corporate priority 'Communities are prospering and resilient with all housing needs met in safe and healthy places that build a strong sense of belonging and cohesion'. The Services will deliver the following outcome: The most vulnerable are protected from avoidable harm, including treating and caring for people in a safe environment through working within the local community. Enhancing quality of life for people with care and support needs and those with long term conditions; out of hospital, community based provision provides a safe and more appropriate environment for individuals recovering from ill health and/or injury or requiring long term care.

Risk management

- 4.10. There are no alternative Council-owned options to Hollybank House for emergency escalation capacity in Walsall. There are several risks, detailed in the list below, which are mitigated by the occupancy of Hollybank House for use as an inpatient facility.
- 4.11. Reduced site capacity at Manor Hospital:
- The number of beds available to allocate to Covid-19 patients is reduced by 21 beds (capacity of Hollybank House)
 - Nurse and medical staffing at Manor Hospital are diverted away from patients that are medically unstable
- 4.12. Risks to patient safety and clinical effectiveness:
- Increase in infection control incidents, pertinent to Covid-19
 - Increase in patient falls
 - Reduced/delayed therapy input for rehabilitation patients as staff are also required to look after medically unstable patients whilst at Manor Hospital
 - Delays to patient care as a result of acute staff taking priority in the rehab setting

4.13. Patient and Citizen Experience:

- Patients may experience heightened anxiety whilst staying in an acute hospital bed during the Covid-19 pandemic
- Visiting to Walsall Manor by family and friends of patients is prohibited due to the Covid-19 pandemic

4.14. Reduced capacity for ICS and Adult Social Care:

- The Covid-19 pandemic is placing unprecedented pressure on the care home market and some care homes are closing to capacity reducing options for timely discharge in extremis
- The national guidance on hospital discharges for medically stable patients will increase the pressure to ensure there is adequate bed stock within the community

4.15. The proposal for Walsall Healthcare NHS Trust to occupy Hollybank House will help to mitigate all of the above risks and support the health and care system response to the Covid-19 outbreak.

4.16. There are other risks associated with the legal elements of granting a tenancy at will on an emergency basis. These are detailed in paras: 4.22 and 4.23 of this report.

Financial implications

4.17. Walsall Council will receive rental income for Hollybank House, which at the time of writing is believed to be **£90,300 pa with no repairing obligations**

4.18. Under a tenancy at will, the landlord retains all repairing obligations. Accordingly, WHT will not be responsible for any maintenance of Hollybank House and any costs of repair will be borne by the Council.

4.19. The Cost to the Council to prepare the building for operational use by WHT will be reimbursed by WHT. Therefore, the net cost to the Council is nil.

Legal implications

4.20. A tenancy at will permits occupation on an exclusive possession basis, for a temporary period. By definition, a tenancy at will can be terminated by either party, at any time, without notice. Although it provides little or no security for the landlord or the tenant, it is an appropriate mechanism for permitting occupation in an emergency situation.

4.21. A tenancy at will is designed for a short-term arrangement, and can be used to permit occupation of a property whilst negotiations continue for occupation on a more permanent leasehold basis. A tenancy at will falls outside Part II of the Landlord and Tenant Act 1954 and provides the tenant with no security of tenure, such that the tenant does not acquire any rights in the property.

4.22. There are three main risks associated with this course of action:

- a. A tenancy at will should not include terms, which would ordinarily be put into a lease. As such, the Council will remain responsible for repairing etc.

- b. A tenancy at will can easily be interpreted as a lease and there is always a risk that if a tenancy at will continues for a long period of time that it will be taken to be a lease. It is therefore important that it is kept under review and that occupation is limited to either a short term period, or a more permanent lease arrangement is put in place.
 - c. It is agreed that the WHT will pay the Council for their occupation under the tenancy at will. Reference to rent in a tenancy at will does carry a risk that the tenancy at will is taken to be a lease. I therefore refer to point b. and the importance of keeping the position under review.
- 4.23. Due to the urgent nature of this matter, and the need to respond under emergency powers to the COVID-19 pandemic to put necessary systems in place to protect the inhabitants of Walsall, it has not been possible to carry out full due diligence in relation to the tenancy at will. The property is unregistered and it has not been possible to inspect all of the unregistered title deeds and documents.

Procurement Implications/Social Value

- 4.24. None

Property implications

- 4.25. The property is not currently in beneficial operational use but is not on the surplus to requirements list for disposal and is considered by WHT to be suitable for their requirements.
- 4.26. Under the proposed tenancy at will, WHT will pay a rent equivalent to £90,300 per annum for the duration of their occupation. This rent is considered to be equivalent to a market rent for the property, based on advice received from the Council's external valuers, Lambert Smith Hampton.
- 4.27. Due to the nature of a tenancy at will, it is not possible to impose repairing obligations on the occupier. Accordingly, the Council will retain the repairing obligations for the building. It is noted, however, that WHT have funded the works required to bring the building into an operational state.

Health and wellbeing implications

- 4.28. The transfer of rehabilitation patients out of the Manor Hospital will provide urgently needed bed spaces in the fight against the COVID-19 pandemic for Walsall residents.

Staffing implications

- 4.29. There are no staffing implications arising out of this report.

Reducing Inequalities

- 4.30. An Equality Impact Assessment (EqIA) has been completed and is appended to this report.

Consultation

4.31. There is no need for consultation because Hollybank House is not currently occupied and no services are required to relocate out of Hollybank House. The relocation of patients from Manor Hospital to Hollybank House is needed and no consultation has been carried out with those patients due to the emergency requirement for additional beds at the hospital during the COVID-19 pandemic and the added need to safeguard rehabilitation patients away from high-risk COVID-19 patients. If this were not an emergency situation, consultation would have been carried out in relation to the relocation of rehabilitation wards from Manor Hospital.

5. Decide

5.1. The Leader is requested to consider the content of this report and to agree the recommendations as outlined in section 3.

6 Respond

6.1. Subject to the Leaders approval, under emergency powers, a 'Tenancy at Will' will be put in place to enable the use of Hollybank House for the relocation of rehabilitation patients from Manor Hospital, to free up additional space within the hospital for the fight against COVID-19.

6.2. Discussions will continue with the NHS for their full business case with a view to seeking authority of Cabinet, at a later date, to granting a lease for the use of Hollybank House on a permanent basis.

7. Review

7.1. The 'Tenancy at Will' will be managed and reviewed in line with ordinary Council procedures

Background papers

None

Author

Kerrie Allward

Director of Commissioning

☎ 01922654701

✉ Kerrie.Allward@walsall.gov.uk



Paula Furnival
Executive Director

3 April 2020

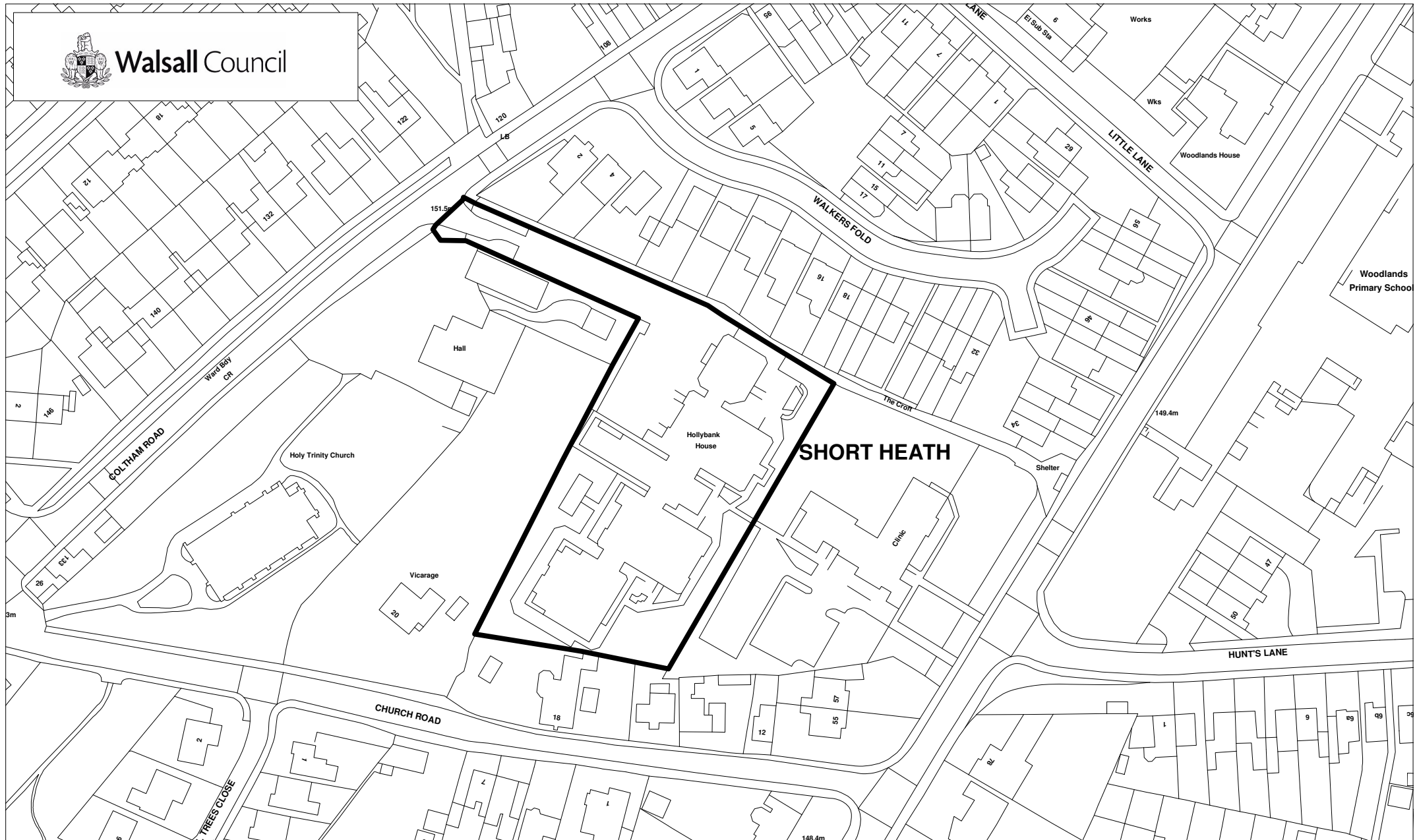


Councillor Rose Martin
Portfolio holder

3 April 2020



Walsall Council



SHORT HEATH

**ASSET
MANAGEMENT**
Zone 2M
Civic Centre
Walsall
WS1 1TP
Tele: 01922 652654

**SITE ADDRESS: HOLLY BANK HOUSE
COLTHAM ROAD, WILLENHALL**

**DRAWING NO: EPMS 4845
DRAWN BY : KCL
DATE: 02/04/2020**

SCALE 1:1250 @ A4

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Equality Impact Assessment (EqIA) for Policies, Procedures and Services

Proposal name	Hollybank		
Directorate	Adult Social care Directorate		
Service	Adult Social care Directorate & WHT		
Responsible Officer	Kerrie Allward		
Proposal planning start	Commenced longer term plan 2018 Emergency plan commenced March 2020 due to COVID-19	Proposal start date (due or actual date)	Emergency beds 6 th April 2020 Long term proposal post COVID-19 as part of full business case and lease

1	What is the purpose of the proposal?	Yes / No	New / revision
	Delivery of Health provided bed based resource as result of COVID-19. To create capacity at Manor hospital for none stroke related patients		
	Policy	Y	Y
	Procedure	Y	Y
	Guidance	Y	Y
	Is this a service to customers/staff/public?	Y	Y
	If yes, is it contracted or commissioned?	Y	To be revised post COVID-19
	Other - give details	Lease arrangement in conjunction with WHT & WMBC	To be reviewed as per business plan and Cabinet approval
2	What is the business case for this proposal? Please provide the main purpose of the service, intended outcomes and reasons for change?		
	<p>Walsall Healthcare Trust face unprecedented pressures on our hospital services in Walsall due to the Covid 19 pandemic. Hospital resources are stretched and further demand is anticipated with a peak of demand for hospital services expected in mid-April. I am seeking urgent Cabinet approval for Walsall Healthcare Trust to obtain occupancy of Hollybank House under a Tenancy of Will arrangement from Monday 6th April so that they can transfer their Stroke Rehab patients off the Walsall Manor site to create capacity for urgent Covid 19 patients.</p> <p>The transfer of moving rehabilitation patients out of the Manor Hospital will serve two purposes: (i) to free up space for Covid patients and (ii) to protect rehabilitation patients from proximity to Covid patients</p>		
3	Who is the proposal likely to affect?		



	People in Walsall	Yes / No	Detail
	All	N	<p>Only people who require the support of the Acute hospital settings during COVID-19 and who are likely to not receive prompt hospital care and support as capacity is reduced.</p> <p>Specific group of patients affected will be none COVID-19 patients who are in hospital due to experiencing a stroke. Their care and support will be delivered via the bed based resource at Hollybank</p> <p>Council employees currently working as part of the integrated Community Service have been re directed to work from Blakenall, closer to colleagues and in order to release the space at Hollybank for the health bed based resource for patients</p>
	Specific group/s	Y	
	Council employees	Y	
	Other (identify)		
4	Please provide service data relating to this proposal on your customer's protected characteristics.		
	<ul style="list-style-type: none"> • National guidance in response to the Covid-19 outbreak, released on 19 March 2020, requires all patients to be discharged from the acute hospital within three hours of being declared as medically stable. • This is in response to the expected surge in demand for acute based bed services and will serve to minimise the significantly increased infection risks associated with patients that are undertaking rehabilitation or complex discharge which is exacerbated where these patient groups share ward space with other medical presentations. The ward size at the Manor hospital is greater than the current number of patients in this group. • Current predictions indicate that Walsall Manor Hospital can expect a surge in Covid-19 demand from now with the first predicted peak by mid-April. It is for this reason that Walsall Healthcare is requesting immediate occupancy of Hollybank House. 		

5 Please provide details of all engagement and consultation undertaken for this proposal. (Please use a separate box for each engagement/consultation).

Several organisations including Walsall Council, Walsall Healthcare NHS Trust and Walsall Housing Group have been involved in discussions to operationalise Hollybank House as an inpatient unit over recent days and it is believed that the unit will be able to deliver this.

Actions have been coordinated jointly between colleagues at Walsall Together, the Integrated Care Partnership for Walsall, and Adult Social Care.

All costs incurred by Walsall Council will be re-charged to Walsall Healthcare NHS Trust and, subject to later Cabinet approval and a satisfactory business case, Walsall Healthcare NHS Trust intends to enter into a lease for occupancy of Hollybank House at current market value (subject to agreement of all other lease terms).

The tenancy at will is likely to remain in place for the duration of the Covid-19 pandemic or until such earlier date that more permanent arrangements are agreed between the relevant parties over the next three to six months if Cabinet accept patients from as early as week commencing Monday 6th April. This proposal supports the Councils urgent and emergency response to the Covid 19 pandemic and the role the Council plays in the wider system of health and care for the people of Walsall.

This proposal links to the Council's corporate priority 'Communities are prospering and resilient with all housing needs met in safe and healthy places that build a strong sense of belonging and cohesion'. The Services will deliver the following outcome: The most vulnerable are protected from avoidable harm, including treating and caring for people in a safe environment through working within the local community. Enhancing quality of life for people with care and support needs and those with long term conditions; out of hospital, community based provision provides a safe and more appropriate environment for individuals recovering from ill health and/or injury or requiring long term care.

Each patient will receive communication as apt of any moves and face to face patient care they are receiving at the point of moving over to Hollybank as part of their passport out of the Acute setting

Engagement with partners and the wider public in relation to the longer term plans to develop a stroke service, will include a far wider reaching engagement calendar the none urgent agendas currently being worked through across the partnerships due to COVID-19

Consultation Activity			
Type of engagement/consultation	Internal workforce engagement and awareness raising	Date	2/3/20
Who attended/participated?	Front line staff employed as part of the existing staff members of ICS and also staff working as part of the wider cohort of colleagues currently occupying Hollybank		
Protected characteristics of participants	All staff will remain part of the wider integrated resource, but will be operating from a different base, still with colleagues and as part of the business continuity planning for this current Crisis around COVID-19		
Feedback	<ul style="list-style-type: none"> Positive feedback from front line staff as they recognise the urgency around releasing capacity for Acute patients and safe discharge from hospital .The new accommodation that staff have moved over to is also more conducive to integrated working and appropriate use of office space 		
6	Concise overview of all evidence, engagement and consultation		
	<p>All relevant engagement and communications are in place as part of the urgent agendas we are delivering currently. Longer term engagement will continue post COVID-19 in relation to any further plans to continue to deliver health related tasks from Hollybank</p> <p>Full Cabinet report and associated documentation that is linked directly to this EQIA.</p>		
7	How may the proposal affect each protected characteristic or group? The effect may be positive, negative, neutral or not known. Give reasons and if action is needed.		
	Characteristic	Affect	Reason
	Action needed Yes / No		
	Age	This is a very positive plan with regard to urgent needs to support both the safe discharge/care of patients who are recovering from strokes. It also releases precious bed capacity within the Manor Hospital and due the increased demands of patients entering the hospital with symptoms or real illness linked to Coronavirus. All the protected characteristics of people will be protected.	
	Disability		
	Gender reassignment		
	Marriage and civil partnership		
	Pregnancy and maternity		
	Race		
	Religion or belief		

	Sex	
	Sexual orientation	
	Other (give detail)	
	Further information	
8	Does your proposal link with other proposals to have a cumulative effect on particular equality groups? If yes, give details.	(Delete one) Yes / No
	<p>The immediate crisis resolution affects everyone potentially if there is no way of releasing capacity of beds at the acute setting</p> <p>If there is no resolution to the needs then this will indirectly impact on all groups across the population that ordinarily would receive proportionate support linked to their health and mental health and wellbeing</p>	
9	Which justifiable action does the evidence, engagement and consultation feedback suggest you take?	
	A	A change required as a result of urgent needs around Stroke patients and creating capacity to treat people who present at the acute hospital settings, increasing pressure as a result of COVID-19
	B	Adjustments needed to remove barriers or to better promote equality
	C	Continue despite possible adverse impact
	D	Stop and rethink your proposal

Action and monitoring plan				
Action Date	Action	Responsibility	Outcome Date	Outcome
3/4/20	Consider and accept the EQIA alongside the Cabinet report and associated documentation the	To amend and update POST COVID 19		

Update to EqIA	
Date	Detail
<p>Use this section for updates following the commencement of your proposal.</p>	

Contact us

Community, Equality and Cohesion
Resources and Transformation

Telephone 01922 655797

Textphone 01922 654000

Email equality@walsall.gov.uk

Inside Walsall: [http://int.walsall.gov.uk/Service information/Equality and diversity](http://int.walsall.gov.uk/Service_information/Equality_and_diversity)