

Cabinet – 19 March 2014

Grant of Lease to Ryecroft NRC

Portfolio: Councillor A Andrew - Regeneration and Transport

Related portfolios: Councillor I Shires – Community Engagement and Voluntary Sector

Service: Property Services

Wards: Blakenall

Key decision: No

Forward plan: Yes

1. Summary

- 1.1 This report proposes that the Council grants a twenty five year lease of the former Dartmouth Youth Centre, 40 New Forest Road and former Property Services Offices, 28 New Forest Road (the New Forest Road site) to Ryecroft Neighbourhood Resource Centre (NRC) (company no. 04129303, charity no. 1087099). A Cabinet decision is required because the proposed lease will run for more than twenty one years and the proposed disposal is at less than best consideration. Community Development supports the grant of a twenty five year lease because it will enable future external funding applications by Ryecroft NRC without the need for the grant of a lease extension or surrender and renewal.
- 1.2 Ryecroft NRC will use the New Forest Road site to develop a community hub, delivering a range of services to local residents. To assist in the development of this project and to help ensure future sustainability a peppercorn rent is proposed, officers are satisfied that the benefits to the community arising from the project will be sufficient to justify waiving a rental income. Delivery of agreed outputs will be monitored by Community Development.
- 1.3 The proposed transaction has allowed Ryecroft NRC to relocate from less suitable accommodation at Dartmouth House and by enabling the decant of that building will help to achieve savings to the Council on maintenance and repairs in the order of £287,500 in the next five years.
- 1.4 The retention and leasing of the New Forest Road site is an amendment to the Smarter Workplaces programme that was agreed by Cabinet in April 2011. Dartmouth House occupies a site of similar size and it is expected that its sale will provide the capital receipt originally anticipated from the New

Forest Road site. Welfare Rights officers occupying the building have been relocated to the Civic Centre and the NHS rehabilitation centre will relocate to Shortheath Clinic at the end of March.

- 1.5 The Council has received a nomination application that seeks to have Dartmouth House added to the list of Assets of Community Value. The application is going through detailed assessment to determine whether the eligibility criteria defined in Part 5, Chapter 3 of the Localism Act 2011 are met. A decision will be made by the Assets of Community Value Panel on 12th March. Listing of Dartmouth House as an Asset of Community Value would not prevent the implementation of the recommendations set out below. In particular, with reference to recommendation 2.5, there is no barrier to the demolition of an asset on the list.

2. Recommendations

- 2.1 That the grant of a twenty five year lease of the land and premises shown edged in bold on the attached plan (EPMS 3497/6), being the New Forest Road site, to Ryecroft Neighbourhood Resource Centre be approved.
- 2.2 That the rent payable be fixed at a peppercorn per annum if demanded.
- 2.3 That approval be given to the disposal of the Council's freehold interest in Dartmouth House as shown edged in bold on plan number EPMS 3739/2 extending to 1.28 acres (5,176 square metres) (or thereabouts)
- 2.4 That authority be delegated to the Executive Director for Regeneration in consultation with the portfolio holder for Regeneration and Transport to approve the terms of the lease of the New Forest Road site to Ryecroft Neighbourhood Resource Centre and for the disposal of Dartmouth House.
- 2.5 That, to minimise void costs (business rates, security costs etc.), Dartmouth House be demolished and the site cleared.

3. Report detail

- 3.1 When Ryecroft NRC agreed to act as lead partner for the Ryecroft Community Hub it was expected that services would be delivered from the charity's existing base at Dartmouth House. However a condition survey of the building identified a requirement to invest £287,481.88 on repairs and building maintenance in the next five years. The bulk of this being £217,364 on electrical works (£124,633 in 2014 and £92,731 in 2015). This prompted a review of future utilisation of the building and discussions with Walsall Healthcare NHS Trust providers of the rehabilitation service operating on the ground floor and the Joint Commissioning Unit.
- 3.2 There was agreement that the rehabilitation centre was not sustainable in its current accommodation and that investment in the maintenance required would not address fundamental deficiencies in suitability. The preferred option became to relocate all of the services occupying the building to alternative

accommodation. The rehabilitation service will relocate to Shortheath Clinic by the end of March 2014. The Welfare Rights team on the first floor are part of the Resources Directorate and it was agreed that it would be brought into the Civic centre and co-located with colleagues on the first floor. This move was completed in January 2014. Ryecroft NRC were offered the New Forest Road site and after due consideration agreed that these would make a better location for the community hub.

- 3.3 In April 2013 the Capital Strategy Board (now Asset Strategy Group) was consulted on and endorsed draft heads of terms for the grant of leases to the two organisations, Ryecroft NRC and Moxley People's Centre (the tenant) leading the community hub pilot projects.
- 3.4 It was agreed that in each case a condition survey of the building(s) would be completed. These surveys have confirmed the current condition of the premises and the extent of maintenance required over the next five years. The terms require the tenant to keep the premises in as good a condition as evidenced by the survey.
- 3.5 The length of lease was not specified. This was to leave flexibility allowing the lease term to be determined by balancing the need to provide the tenant with adequate security of tenure to enable it to access external funding and retention of control/future flexibility by the Council. It was anticipated that lease terms would be for periods in excess of 21 years and that Cabinet approval would be required for their grant.
- 3.6 A peppercorn rent was proposed because the tenant would be taking on responsibility for repairs and maintenance of the premises. It will need to budget for the maintenance works set out in the schedule of condition. It is unlikely that the tenant will be able to provide affordable services to their communities if it has to do this and pay a market rent. Should major works (not anticipated in the schedule) arise, that are beyond the means of the tenant to fund, the tenant will be able to operate a break clause enabling it to surrender the lease on 28 days notice. It is proposed that this is operable in the case of works in excess of £10,000. This clause is meant to give the tenant's trustees comfort that the tenant could not be put at risk of financial failure as a consequence of entering into the lease. The tenant will also have the right to terminate the agreement at any time on six months notice, giving it the flexibility to relocate should its needs change.
- 3.7 Because the lease needs to meet the requirements of external funders there is no provision for early termination by the Council unless the tenant is in serious breach of the lease terms or becomes insolvent.
- 3.8 Ryecroft NRC took over management of Dartmouth Youth Centre, 40 New Forest Road at the end of August 2013. Sessional hire arrangements in place at that time to Walsall Community Church and a martial arts group have been preserved and new users attracted. Ryecroft Rascals playgroup has relocated from Dartmouth House. Council funding for the development of the community hub will be used to pay for alterations to the former Property Services Offices,

28 New Forest Road to improve access to the building and create space suitable for a community gym and enterprise hub.

- 3.9 Community Development has been working closely with Ryecroft NRC to develop an operational programme of activities that increases access to services for local residents. This has already resulted in the level of community activities being delivered from Dartmouth Youth Centre increasing from 13 hours per week to over 60 hours per week. Other partners that have been engaged as part of this plan includes Public Health, NHS Lifestyles Team, Walsall Housing Group (WHG), Walsall College, JCP and other community organisations.
- 3.10 Because of its condition the reuse of Dartmouth House for other purposes is not considered sustainable. However the Council has received a nomination application from a community group that seeks to have Dartmouth House added to the list of Assets of Community Value. This group currently operates from a community room in Ryecroft Place owned by WHG. It wishes to expand its activities by relocating to Dartmouth House. The listing application is going through detailed assessment to determine whether the eligibility criteria defined in Part 5, Chapter 3 of the Localism Act 2011 are met. A decision will be made by the Assets of Community Value Panel on 12th March. Listing of Dartmouth House as an Asset of Community Value would not prevent the implementation of the recommendations made in this report. In particular, with reference to recommendation 2.5, there is no barrier to the demolition of an asset on the list. Following demolition an application could then be made for the site to be removed from the list. In any event the Act does not oblige a landowner to sell their asset to any one party, it simply delays the sale process by providing a period during which a community organisation can work on a bid for the asset. Landowners remain at liberty to sell to the purchaser of their choosing and to seek full market value for their asset (more detail is provided in section 7 of this report).

4. Council priorities

- 4.1 The Ryecroft Community Hub has the potential to contribute to the delivery of all four of the Councils priorities:
- Supporting Business to Thrive and Supporting Local People into Work – through the provision of space for business start ups
 - Improving Health and Wellbeing, including Independence for Older People – through the provision of gym facilities and opportunities for social activities
 - Creating Safe, Sustainable and Inclusive Communities – by engaging with local people and promoting all age activities and community cohesion
 - Improving Safeguarding, Learning and the Life Chances for Children and Young People – by providing play and learning opportunities

- 4.2 The strengthening of community based services, the principle of community hubs and the process for supporting these was agreed by Cabinet in July 2012. Ryecroft is one of two pilot projects. The allocation of funding to support the development of these pilots was agreed by Cabinet on 24 April 2013.

5. Risk management

- 5.1 The grant of a lease as compared to transfer of the freehold of the New Forest Road site to Ryecroft NRC enables the Council to retain a degree of control over the future use and management of the premises. This reduces the Council's exposure to risk.
- 5.2 In addition Community Development will continue to support Ryecroft NRC to develop a sustainable business model for the community hub and will undertake regular monitoring of progress and activities.

6. Financial implications

- 6.1 The proposals contained in this report are expected to have positive financial implications overall. The expected capital receipt from the sale of the New Forest Road site will be replaced by the Dartmouth House site. This will be disposed of in the 2014/15 financial year in line with the projected disposal timeframe for the New Forest Road site.
- 6.2 £287,000 capital expenditure on Dartmouth House will be avoided and revenue running costs of £30,000 per annum saved. This is in addition to the £56,700 revenue savings arising from the grant of the lease of the New Forest Road site to Ryecroft NRC.
- 6.3 The proposed lease is at a peppercorn rent meaning that a notional market rent for the buildings in the order of £50,000 per annum will be foregone. Over the 25 year lease term this represents disposal at an undervalue of £1,250,000.

7. Legal implications

- 7.1 Section 123 of the Local Government Act 1972 states that: "Except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy [which the proposed lease to Ryecroft NRC is not], for a consideration less than the best that can be reasonably be obtained". Therefore, local authorities are given powers under section 123 of the Local Government Act 1972 to dispose of land in any manner they wish, including granting a lease, but the only constraint is that this must be for the best consideration reasonably obtainable (except in the case of short tenancies), unless the Secretary of State consents.
- 7.2 There is, however, a general consent. This is set out in Circular 06/03: "Local Government Act 1972 general disposal consent (England) 2003 disposal of land for less than the best consideration that can be reasonably be obtained".

The terms of this consent mean that specific consent is not required for the disposal of any interest in land which the authority considers will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area. In all cases, disposal at less than best consideration is subject to the condition that the undervalue does not exceed two million pounds.

- 7.3 Members should be satisfied that the grant of the lease to Ryecroft NRC falls within the above criteria for the general consent.
- 7.4 With regard to the application to include Dartmouth House on the Council's list of community assets, a panel will reach a decision on this on 12 March. If Dartmouth House is included on the list, it is important to understand that the Localism Act 2011, which contains the relevant legislation for community assets, does not impose any limitation or restriction at all on what the owner, i.e. Council, may do with the property. Neither does it impose any obligation for the property to be used as a community asset. Instead, the legislation operates only by imposing a moratorium during which the owner may only dispose of the property to a community group, as is explained below.
- 7.5 An initial six week moratorium period applies from the point the owner notifies the Council of his intention to dispose of the property (meaning in this case that Asset Management would notify the Neighbourhood Directorate of the intention to dispose of Dartmouth House, if approved by Cabinet). During that six week period any community group may request to be treated as a bidder for the property. If such a request is received, then a six month moratorium applies during which the Council would only sell the property to any community group that decides to bid for the property. However, the Council would still be free to negotiate a sale with other interested parties as well, and if no sale can be agreed with a community group by the end of the moratorium period (or the end of the six week moratorium where no request from a community group is received) then the Council would be free to sell the property on the open market to whomever it wishes and at whatever price
- 7.6 As well as having powers to include properties on the list of community assets, the Council can also remove them where if for any reason it no longer considers that the land is of community value.

8. Property implications

- 8.1 There is no Council requirement for either of the buildings that will be the subject of the proposed lease. It is proposed that the capital receipt foregone as a result of their retention will be made up from the sale of Dartmouth House.

9. Health and wellbeing implications

- 9.1 The development of the community hub will have a positive impact on health and well-being in the locality and will support delivery of the Marmot

objectives. For example the provision of a community gym will improve general fitness levels and reduce the incidence of obesity and related health impacts.

10. Staffing implications

- 10.1 Property Services employ two part time cleaners who are responsible for the parts of Dartmouth House occupied by Welfare Rights and Walsall Healthcare NHS Trust. If they cannot be redeployed these staff are potentially redundant as a result of the closure of the building.
- 10.2 The lease negotiations have been undertaken by Asset Management using existing staff resources as will completion of the appropriate legal documentation by Legal Services.

11. Equality implications

- 11.1 The decision to grant a lease will enable the provision of a range of community services by a third party. Because the service is not Council provided the completion of an equalities impact assessment is not required. Ryecroft NRC has an equal opportunities policy.

12. Consultation

- 12.1 A community consultation event was held on 24 April 2013. Plans for the delivery of a community hub at the New Forest Road site were explained and feedback and suggestions for services to be provided sought.
- 12.12 Since then, Ryecroft NRC has held two further open events where residents have been given the opportunity to see the facilities at the New Forest Road site and comment on future activities. The development of the operational plan has required engagement with various services within the Council as well as WHG, Walsall College, WACC, JCP and other community organisations.

Background papers

None

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10 March 2014



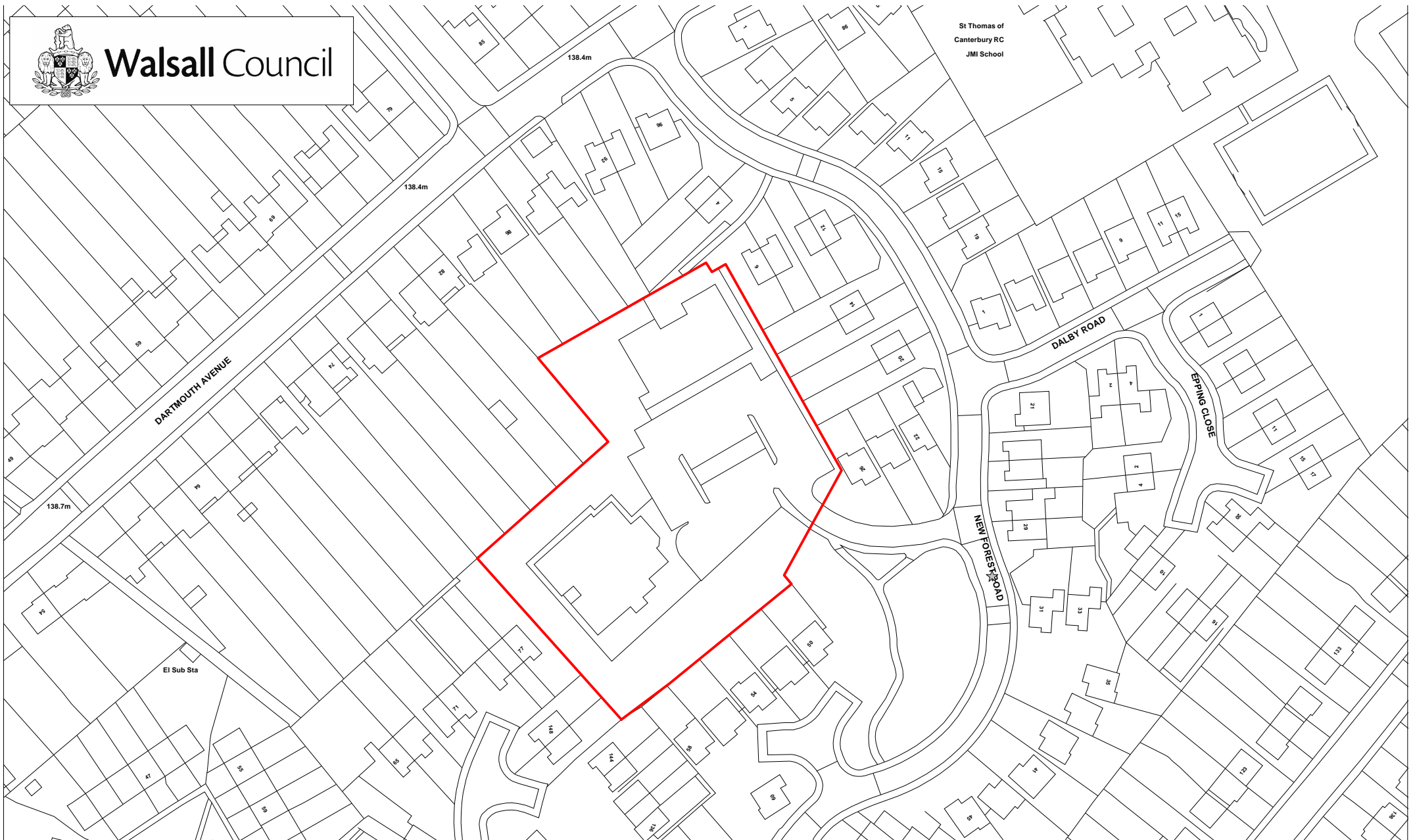
Councillor A Andrew
Portfolio holder Regeneration and Transport

10 March 2014



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DRAWING NO : EPMS 3497/6
DATE : 28/01/2014
DRAWN BY : SSP



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