

**Executive Member for Housing and Development**

Meeting of	Date	Ward(s)
Executive	09 February 2017	Highbury East
Delete as appropriate		<del>Non-exempt</del>

**NOT FOR PUBLICATION**

Appendices 2 and 3 are not for publication as they contain the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: "Information relating to the financial or business affairs of any particular person (including the authority holding that information)."

**SUBJECT: Highbury Roundhouse Lease**

**1. Synopsis**

- 1.1 The Highbury Roundhouse Association (HRA) provides a valuable service to the local community, particularly to younger and older people. In accordance with its fairness priority and the Council's corporate objective of creating a good quality of life, the Council has been working with HRA for a number of years to help bring forward the delivery of a new community centre building.
- 1.2 At its meeting on 16 June 2011, the Executive authorised the Corporate Director of Environment and Regeneration in consultation with the Corporate Director of Housing and Adult Social Services and the Corporate Director of Finance to investigate and report back to a future meeting of the Executive on the viability of proposals to secure the provision of a new community centre for the HRA on the Ronalds Road site.
- 1.3 Now with the community centre building design completed, planning consent granted, a building contractor appointed and the large majority of the funding secured to construct the new community centre, it is proposed in this report that the Council grants the Highbury Roundhouse Association Ltd a 99 year lease on the rear of the site at 71 Ronalds Road.

**2. Recommendations**

- 2.1 To note that the Council has granted the HRA £1,083,000 funding towards the delivery of the new community centre building.

- 2.2 To note that the Corporate Director for Environment and Regeneration, in consultation with the Corporate Director for Finance and Resources and the Corporate Director for Housing and Adult Social Services, has taken the decision to waive the Funding Condition and Vacant Possession Condition set out in the Conditional Development Agreement and Agreement for Lease between the Council and The Highbury Roundhouse Association Ltd.
- 2.3 To agree to grant the Highbury Roundhouse Association Ltd a 99 year lease of the land at the rear of 71 Ronalds Road shown edged red on the site plan at Appendix 1 and on the terms set out in exempt Appendix 3, subject to the Council and the Highbury Roundhouse Association Ltd agreeing a delivery plan to transfer all services from Sotheby Mews to the new community centre building.

### **3. Background**

#### **History**

- 3.1 The Highbury Roundhouse Association (HRA) provides a valuable service to the local community, particularly to younger and older people. In accordance with its fairness priority and the Council's corporate objective of creating a good quality of life, the Council has been working with the HRA for a number of years to help bring forward the delivery of a new community centre building.
- 3.2 At its meeting on 16 June 2011 the Executive was informed that the Corporate Director of Environment and Regeneration, in consultation with the Executive Member for Planning, Regeneration and Transport and the Corporate Director for Finance, had taken the decision to demolish the bottleworks building at 71 Ronalds Road; the building previously used by the HRA to deliver many of its services to the local community. This was as a result of a Dangerous Structure Notice being issued as the building was in imminent danger of collapse. At this meeting the Executive emphasised the Council's full and firm public commitment to work in partnership with the HRA to provide a new community centre on the 71 Ronald's Road site, and authorised the Corporate Director of Environment and Regeneration in consultation with the Corporate Director of Housing and Adult Social Services and the Corporate Director of Finance to investigate and report back to a future meeting of the Executive on the viability of proposals to secure the provision of a new community centre for the HRA on the Ronald's Road site.
- 3.3 On 7 February 2012 (following public consultation in 2011) the Council adopted a planning brief for the site as a first step towards providing the local community in Highbury with a new community centre. The brief set out the parameters for the new community centre and the Council's aspiration to provide much needed affordable housing on part of the site.
- 3.4 To help the HRA with its aspiration to deliver a new community centre building, the Council has provided the HRA with financial support over the last few years. The Council initially granted the HRA £83,000 Section 106 funding to undertake design and feasibility work and submit a planning application for the new community centre building (refer to Table 1 below).
- 3.5 Subsequently, on 25 July 2013, following design and public consultation, the HRA was granted planning consent for a new community centre building at the rear of the site on Ronalds Road.
- 3.6 The Council granted the HRA a further £100,000 Section 106 funding to support the detailed design process and the procurement of a contractor (refer to Table 1 below).
- 3.7 In May 2016, following discussions between the Council and HRA over a number of years, the Council gave the HRA a limited period of exclusivity (initially until 31 October 2016, extended until 20 November 2016) to raise the funds to build this new community centre as a prerequisite for securing a lease on the land from the Council. To this end, on 19 July 2016, the Council and

the HRA exchanged a 'Conditional Development Agreement and Agreement for Lease' (CDA) incorporating Heads of Terms for a lease of the community centre. The Heads of Terms are set out in exempt Appendix 3 to this report.

- 3.8 With planning consent for the design of a new community centre building granted, and the above mentioned CDA in place, the HRA managed to secure a significant part of the funding required to build the new community centre building; most notably a nearly £1 million grant from the Big Lottery Fund.
- 3.9 To help the HRA deliver its new community centre building, the Council has now granted the HRA a further £900,000 match funding for the construction of the new community centre building.

**Table 1: Council contributions to new community centre building**

2012-2013	Section 106 contribution towards concept design & planning application	£83,000
2015-2016	Section 106 contribution towards detailed design and procurement	£100,000
2016-2017	Council capital grant towards the construction of the new community centre building	£900,000
<b>Sub-total 2</b>		<b>1,083,000</b>

*\*Figures rounded off to £1,000*

### **Waiving funding condition**

- 3.10 To meet the above 'Funding Condition', the HRA provided the Council with evidence of its fundraising activities by the deadline of 20 November 2016.
- 3.11 The HRA has secured a significant part of the funding required to build the new community centre building as set out in exempt Appendix 2, most notably a nearly £1 million grant from the Big Lottery Fund and the above mentioned £1,083,000 contribution from the Council.
- 3.12 The HRA did not meet the funding condition in full in that there is a shortfall of approximately £400,000 required for the community centre development. The HRA continues its fundraising, and with a large part of the funding secured, is confident that it will be able to secure the remaining £400,000 from external funders other than the Council. The HRA has been told that there can be no further funding from the Council.
- 3.13 Whilst the HRA has a credible programme to secure the remaining funding, it is possible that it will not succeed in doing so. For the HRA to proceed to construction without the full funding secured, the construction project has been split into three phases. Phase 1 will be for the main contract for which the HRA has secured the funding, with a second construction phase once further funds have been secured, and a third phase for fittings and furniture. This approach to procurement by the HRA reduces the risk of leaving a building half-constructed were funds to run out mid-construction.
- 3.14 The CDA is conditional on the satisfaction of a number of conditions, including the Funding Condition and the Council's Conditions. The Funding Condition requires the HRA to provide written confirmation from its funders that it will receive sufficient funds to meet the total cost of the community centre development less the Council's contribution. As indicated in 3.12 above, there is currently a funding shortfall of approximately £400,000. Although the HRA was unable to satisfy the Funding Condition in full by the date of 20 November 2016, the Corporate Director for Environment and Regeneration, in consultation with the Corporate Director for Finance and Resources and the Corporate Director for Housing and Adult Social Services, took the decision

(on 22 December 2016) to waive strict compliance with that condition as part of the decision to grant the HRA a £900,000 contribution towards the construction of the new community centre building.

### **Waiving and vacant possession condition**

- 3.15 The Council's Conditions in the CDA include the agreement of the Executive to the grant of the lease. In addition to the above mentioned Funding Condition, the grant of a lease was also subject to a Vacant Possession Condition in the CDA i.e. the vacation by the HRA of the house at 71 Ronalds Road (at the front of the site). The HRA continues to use this building to provide some of its services to the local community, and will require this space (or alternative accommodation) until the new community centre building opens. Whilst the Council needs to take possession of this building to redevelop the front of the site for housing, there is no immediate need to do so, as the Council's plans to redevelop the front of the site for housing are in their early stages. The new community centre building is likely to be completed before the Council (or a development partner) starts construction of the housing development, at which stage vacant possession of the house is required.
- 3.16 It is open to the Council to waive strict compliance with this condition. As part of the decision to grant the HRA a £900,000 contribution towards the construction of the new community centre building, the Corporate Director for Environment and Regeneration, in consultation with the Corporate Director for Finance and Resources and the Corporate Director for Housing and Adult Social Services, have taken the decision (22.12.16) to waive the vacant possession condition.
- 3.17 This decision was subject to the Highbury Roundhouse Association Ltd agreeing to provide vacant possession of 71 Ronalds Road (excluding the area to be demised to the Highbury Roundhouse Association Ltd under the community centre lease) to the Council on the earlier to occur of the dates which are 28 days after practical completion of the new community centre and the date stated in a prior written notice of not less than 28 days given by the Council to the Highbury Roundhouse Association Ltd requiring vacant possession for the purposes of carrying out a residential development on the front part of 71 Ronalds Road.

### **Disposal/granting of lease**

- 3.18 Under the Council's constitution, decisions to declare property assets surplus to requirement are delegated to the Corporate Director of Finance and Resources (with the exception of residential street properties where there is a delegation to the Corporate Director of Housing and Adult Social Services). Following consultation with the other Corporate Directors, the Corporate Director of Finance and Resources has declared the land at the rear of 71 Ronalds Road (refer to Appendix 1) surplus to the Council's requirements. The Council will not dispose of the front of the site as it intends to develop this land for housing.
- 3.19 The proposed site comprises approximately 1,021 square metres (0.1 hectares) of cleared land. The HRA has been using this land and the additional land at the front since 1974 to deliver its activities, in particular for young people and older people.
- 3.20 As set out above, the HRA is planning to construct a new community centre building on the site. To deliver the scheme the Council will grant a new 99 year lease without premium to the HRA.
- 3.21 When disposing of assets on a freehold or long term lease basis the Council must normally obtain best consideration reasonably obtainable for the interest in question. The Head of Property Services has confirmed that the grant of a 99 year lease at a peppercorn rent whilst retaining the freehold with an obligation on the HRA to build out the community centre development will represent best consideration for the Council even allowing for the Council's capital contribution. In addition the Council will be securing non-monetary social benefits for its residents from the new community centre

- 3.22 The new lease will be for 99 years at a peppercorn rent and will be on a full repairing and insuring basis, meaning HRA will be fully responsible for the repair and maintenance of the property. The initial ground rent payable will be £500 per annum and subject to review every five years with increases limited to 50% of the increase in the Retail Price Index.
- 3.23 The permitted use will be as a community centre and associated services for the residents of Islington. Assignment or subletting of the whole may be permitted subject to the Council's consent not to be unreasonably withheld.

### **Services for older people**

- 3.24 The Council welcomes the valuable service that the HRA provides to the local community, including services to older people at Sotheby Mews. The Council also welcomes the HRA's commitment to continue to provide the services that it currently provides at Sotheby Mews at the new community centre building at Ronald's Road. The Council decision to grant the lease to the HRA will be subject to the HRA and the Council agreeing a delivery plan to transfer all services from Sotheby Mews to the new community centre at Ronalds Road. It should be noted that the HRA's Big Lottery funding bid commits it to provide services for 300 people a year in addition to providing services to the wider community.

## **4. Implications**

### **Financial implications**

- 4.1 Housing have confirmed that they expect to be able to reimburse the cost of the £900,000 capital grant from future capital receipts secured through redevelopment of the site. The revenue cost of this grant will be the loss of interest from using existing council cash to fund it, approximately £4,500 per annum. The Council is able to fund this from the corporate treasury budget.
- 4.2 The site has been allocated for community use via a Planning Brief. There is no alternative use of the site, such as a residential redevelopment, that could generate a capital receipt.

### **Legal Implications**

- 4.3 The Council owns the freehold of 71 Ronalds Road and holds the property for housing purposes pursuant to Part 2 of the Housing Act 1985 albeit the site has been used for community purposes for many years. The Council requires the consent of the Secretary of State to dispose of land held for housing purposes (section 32 of the 1985 Act). However, the Council may rely on the General Housing Consents 2013, consent A3.2 which permits the disposal of vacant housing land (that is land on which there are no houses) to grant the 99 year lease of the community centre development to the Highbury Roundhouse Association Limited
- 4.4 Normally, when disposing of an interest in its land, the Council is required to obtain the best consideration that is reasonably obtainable in order to satisfy its fiduciary duty to its Council Tax payers. In this regard, the views of the Head of Property Services (see paragraph 3.21 above) that the Council will be receiving best consideration for the lease of the community centre site, are noted.

### **Environmental Implications**

- 4.5 The decision to grant the Highbury Roundhouse Association Ltd a 99 year lease on the land at the rear of 71 Ronalds Road would facilitate the delivery of the new community centre building at 71 Ronalds Road. The Council granted planning consent for the proposed new community centre building in 2013. The proposed new community centre building therefore complies with the Council's policies on sustainability and sustainable design.

### **Resident Impact Assessment**

- 4.6 The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster

good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.

- 4.7 A Resident Impact Assessment was completed on 19 December 2016 and the summary is included below.
- 4.8 The granting of a lease for the Highbury Roundhouse Association for 71 Ronalds Road and the subsequent development of a new purpose-built community centre at the site is unlikely to have a direct or indirect discriminatory effect on any protected characteristic.
- 4.9 The development of a purpose-built community centre to provide a home for the Highbury Roundhouse Association is likely to have particular positive impacts in respect of the protected characteristics of age particularly children and older people gender (women), and disability (centre users with a with a physical disability).
- 4.10 No specific impacts have been identified in respect of other protected characteristics. However age-targeted and general activities offered by the Highbury Roundhouse Association have the potential to promote, through joint participation and networking opportunities, harmonious relationships between people with all protected characteristics.

## 5. Conclusion and reasons for recommendations

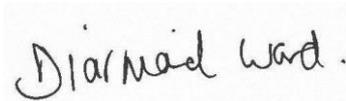
- 5.1 The HRA provides a valuable service to the local community, particularly to younger and older people. The Council has been working with the HRA over the last few years to help them bring forward a new community centre building at the Ronald's Road site.
- 5.2 Disposal of the land interest of the site by granting the HRA a 99 year lease on the rear part of the 71 Ronald's Road site will support the Council's fairness priority and Corporate objective of creating a good quality of life. Grant of the lease is subject to the council and the HRA agreeing a delivery plan to transfer all services from Sotheby Mews to the new community centre.

## Appendices

- Appendix 1: Highbury Roundhouse site plan
- Appendix 2: **(Exempt)**: Financial information
- Appendix 3: **(Exempt)**: Heads of Terms Lease

Final report clearance:

**Signed by:**



9 February 2017

Executive Member for Housing and Development      Date

Report Author: Martijn Cooijmans  
Tel: 2776  
Email: Martijn.cooijmans@islington.gov.uk