

Report of: Executive Member for Economic Development

Meeting of:	Date	Ward(s)
Executive	19 April 2018	All

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THE APPENDIX TO THIS REPORT IS EXEMPT AND NOT FOR PUBLICATION**SUBJECT: AFFORDABLE WORKSPACE ARRANGEMENTS: DELEGATION OF
AUTHORITY TO GRANT UNDER-LEASES****1. Synopsis**

- 1.1 Islington is one of the most economically dynamic and successful parts of London. However, many local people and small businesses are unable to access the opportunities delivered through economic growth. Many local residents experience unemployment or insecure and low-paid employment. Furthermore, whilst Islington's economic prospects are critically reliant upon micro and small businesses, high rents and rising business rates mean that many micro and small businesses struggle to survive and remain in the borough.
- 1.2 In response to these challenges, the Council is committed to promoting inclusive economic growth within the borough. It will do this by intervening whenever it can to ensure that economic growth benefits the borough's most disadvantaged residents, and that micro and small businesses are supported to remain in the borough and grow. An Affordable Workspace Strategy that will help guide future work to support inclusive economic growth in the borough is being developed and will be submitted to a future meeting of the Executive for approval.
- 1.3 Since 2014 the Council has secured nine new affordable workspaces through legal agreements with developers (known as s106 agreements) – with hopefully more to come. In addition, the Council has secured Good Growth funding from the Mayor of London. This funding will deliver four new affordable workspaces in Finsbury Park. At least four new affordable workspaces are either complete or near completion, and likely to become available in 2018/19. The Council intends to commission affordable workspace operators to manage these spaces on its behalf.

- 1.4 This report describes the commissioning process that the Council will use to secure operators to manage the new affordable workspaces. This process will require the affordable workspace operators to deliver real and substantial social benefit for local people and local micro and small businesses. In exchange for the right to lease the affordable workspace at a peppercorn rent, the operators will be required to provide:
- sub-market rents of up to 80% of market rent for their tenants (variable according to the needs of the tenants),
 - jobs, apprenticeships and training for local people,
 - support for local entrepreneurs who wish to start up or grow a micro or small business, and,
 - other social benefits.
- 1.5 Once a decision has been made to commission an affordable workspace operator, a concession contract with that operator will be drawn up. In addition, the operator will be granted an under-lease that will set out the terms on which it can occupy the space. The granting of such leases is normally a function of the Executive. However, in this instance, the Executive is asked to delegate its powers for granting these leases to the Corporate Director of Resources following consultation with the Executive Member for Economic Development.

2. Recommendations

- 2.1 To note the process and criteria for the award of concession contracts to affordable workspace providers of any affordable workspaces that become available in the period up to the end of March 2019, as set out in paragraphs 3.3 to 3.5.
- 2.2 To authorise the Corporate Director of Resources to grant under-leases of affordable workspaces to those affordable workspace providers that are awarded concession contracts in respect of those spaces following consultation with the Executive Member for Economic Development.

3. Background

Context

- 3.1 In 2014 the Council adopted its Affordable Workspace Guidance. This guidance forms part of the Local Plan that sets out the Council's planning policies. Since 2014, the Council has secured nine affordable workspaces (with a total floor space of approximately 3,700sqm). These spaces have been secured via s106 agreements with developers. These sites are secured under the following conditions:
- A. B1 office use;
 - B. peppercorn rent to the Council although the Council is responsible for any service charges and other charges such as utilities;
 - C. for a period ranging from 10 to 20 years; and
 - D. to be fitted out to a high Category A standard.

Four of these affordable workspaces are either complete or nearing completion and are likely to become available during 2018/19. A schedule of these sites is provided in exempt Appendix 1 (exempt for reasons of commercial confidentiality). Once the spaces are ready for occupation, the Council will sign a sub-lease with the owner and will become liable for service charges and other charges such as utility bills.

- 3.2 The Council has previously developed a process to enable potential affordable workspace operators to join a list of Council approved providers. This list remains open and new operators can join the list. The framework was set up for four years and expires at the end of March 2019. However, at the time that it was developed, this process did not include any procedures that would enable the Council to appoint operators for any new affordable workspaces. These procedures have now been developed, are set out below, having been approved by the Corporate Director of Resources. A new process will be developed for the period after March 2019.

Affordable Workspace Providers Concession Award Process

- 3.3 When an affordable workspace becomes available, the Council will contact each of the providers on its list and will invite them to apply to operate the workspace. The workspace providers will be invited to apply by clearly demonstrating the social outcomes that they will deliver against each of the following criteria:
- a. rent affordability (25%)
 - b. development of support programmes for micro and small businesses (20%);
 - c. delivery of employment outcomes for local residents (20%);
 - d. development of education and skills initiatives to engage local young residents (20%);
 - e. equality and diversity (5%);
 - f. promoting the development of local business clusters (5%); and
 - g. other social value initiatives that could be considered for the benefit of the local community (5%).

The operator who performs best against these criteria will be awarded a concession contract and under-lease.

This approach is based on the principles of a social value procurement framework. This allows the Council to accept less than best consideration for the grant of the concession contract and under-lease. In exchange for this, the operators will be required to deliver well-defined social value outcomes as listed above.

The contract will set out the social outcomes that the operator has agreed to provide. The concession contract will form the basis for monitoring the affordable workspace operator who will be subject to quarterly monitoring performance reviews. The concession contract established with each operator will contain provisions enabling the Council to terminate the contract in the event of underperformance by the operator.

Grant of Under-lease

- 3.4 As referred to above, the Council has secured at least four affordable workspaces that will become available in the period up to end of March 2019. The Council will be taking a sub-lease on each completed affordable workspace from the developer for a term of 10 to 20 years (depending on the provisions in the s106 legal agreement) at a peppercorn rent. The Council will be required to pay any service charges and other charges such as utility bills until such time as it hands the space over to the operator. As indicated above, the Council will award an under-lease to the affordable workspace operator in tandem with a concession contract.
- 3.5 The grant of leases for a period of more than six months at less than best consideration is an Executive function. To avoid paying service charges and other costs, the Council needs to be in a position to grant the under-leases to the providers as soon as the concession contracts are awarded. For reasons of timeliness, it is therefore recommended that authority to grant the under-leases to providers is delegated to the Corporate Director of Resources following consultation with the Executive Member for Economic Development.

4. Implications

4.1 Financial implications:

Through the section 106 process the Council has negotiated the provision of workplace accommodation on a peppercorn lease basis, as detailed in Appendix 1. The market rental value of these properties over the period of availability is between £10.77m and £12.78m

The concession contract will allow us to transfer these properties to affordable workspace operators on an under-lease at a peppercorn rent for a duration of between 10 – 20 years as detailed in Appendix 1. As the disposal of the lease interest is less than best consideration this will need the necessary approvals as detailed in the legal implications below.

Landlord responsibilities and costs associated with this will remain with the council until the under-lease is granted to the AWP.

4.2 Legal Implications:

The Council has established an affordable workspace dynamic purchasing system framework. The framework expires at end of March 2019. Accordingly, concession contracts may be awarded to affordable workspace providers for affordable workspaces that become available prior to that date following the undertaking of a mini competition between the affordable workspace providers on that framework.

The Affordable Workspace DPS framework provides for the successful affordable workplace provider to be awarded a concession contract and to be granted an under lease of the affordable workspace at a peppercorn rent for the term of the concession contract.

The decision to grant a lease for a term of more than 6 months at less than best consideration is a matter which is reserved to the Executive by the Council's constitution. However, notwithstanding such reservation, the Executive may delegate the decision to grant an under lease of an affordable workspace at less than best consideration to the Corporate Director of Resources.

The Council may grant under leases of the affordable workspaces to the successful affordable workspace providers (section 123(1) of the Local Government Act 1972) for the duration of the concession contracts, as the under leases will be in excess of 7 years, the Secretary of State's consent will be required as the rental is less than best consideration. However, Local Government Act 1972: General Disposal Consent (England) 2003 provides a general consent for the disposal of land where the use of the land after disposal will promote or improve the economic, environmental or social well-being of its area and/or its residents and the undervalue for the disposal does not exceed £2,000,000 (two million pounds).

The under leases of the affordable workspaces will be ancillary to the concession contract. Therefore, the leases will need to be contracted out of the statutory business security of tenure provisions comprised in Part II of the Landlord and Tenant Act 1954.

4.3 Environmental Implications

The main environmental implications of appointing Affordable Workspace Providers to manage the Council's affordable workplaces will be the manner in which the appointed providers manage the premises, particularly the heating and cooling systems (which will use energy), the provision of waste facilities for tenant businesses (which will influence the level of recycling and food waste composting), and management of the building-related waste (e.g. disposing of light bulbs and other consumables). There will also be environmental impacts related to the providers' own office functions, namely energy, resource and water use and waste generation.

4.4 Resident Impact Assessment:

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.

The Council completed a Resident Impact Assessment (RIA) in February 2018. A summary of the findings is given below.

The key findings of the RIA indicate that overall the implementation of the Affordable Workspace Arrangements would deliver positive impacts in terms of bringing long term social value benefits for Islington residents and for the local community of small and micro businesses

The activity generated from the operation of the new affordable workspaces will create low cost workspace that is accessible for local residents and businesses; will enable small and micro businesses to receive specialist support from experienced workspace providers; will generate new direct and indirect employment opportunities for Islington residents; and will enable the Council to work closely

with the affordable workspace providers to secure education and skills outcomes for those furthest from the labour market, economically disadvantaged or with protected characteristics. The commissioning process specifically requires the operators to demonstrate how they promote equality and diversity by ensuring that the occupants of the building reflect the demographic make-up of the local community.

5. Reason for recommendations

- 5.1 Delivery of the Council's affordable workspace strategy is integral to the achievement of the Council's vision of inclusive economic development. The Executive is asked to note the process that has been adopted to commission operators for these workspaces.
- 5.2 The delegation of the decisions on the granting of leases of affordable workspaces to the Corporate Director of Resources will allow the Council to create new affordable workspace flexibly and quickly, thereby avoiding any liability by the Council to pay service charges and other charges.

Appendices

- EXEMPT APPENDIX 1 - Affordable Workspace Schedule 2018

Final report clearance:

Signed by:

4 April 2018

Executive Member for Economic Development Date

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