

Community Wealth Building
Town Hall, Upper Street, London, N1 2UD

Report of: Executive Member for Finance, Planning and Performance

Meeting of: Executive

Date: 23 May 2024

Ward(s): Bunhill

[Appendix 1 to this report is exempt and not for publication](#)

**Subject: Grant of a sub-lease for 2-4 Old Street Yard,
EC1Y 8AF**

Synopsis

- 1.1. The Council has a 10 year head lease on space within the White Collar Factory development at 2-4 Old Street Yard, EC1Y 8AF. One of its affordable workspace providers has unexpectedly terminated its underlease, exposing the Council to substantial operational liabilities such as business rates and service charges. The Council has been in discussion with Fareshare, the UK's longest running food redistribution charity, to move its HQ to the borough and has reached agreement for it to move into the vacated space at 2-4 Old Street Yard.
- 1.2. The proposed arrangement will both mitigate the Council's financial risk as well as establish a major national charity in the borough, offering a range of social value and partnership benefits for our residents and local businesses.

2. Recommendations

- 2.1. To approve the granting of an underlease to FareShare for 2-4 Old Street Yard, EC1Y 8AF in line with the terms agreed in the exempt Appendix 1.
- 2.2. Delegate authority to the Corporate Director of Community Wealth Building to enter into the lease.

3. Background

- 3.1. Following one of the Council's affordable workspace providers unexpectedly terminating its underlease, the Council has been exposed to substantial operational liabilities such as business rates and service charges. It was essential that a new tenant was secured as rapidly as possible.
- 3.2. Fareshare's mission of redistributing unwanted food, fighting hunger and food waste closely align with the Council's vision to eliminate food poverty as well as its wider missions around Community Wealth Building and Fairer Together. They redistribute surplus food to charities that turn it into meals. In Islington, over the past 12 months, they delivered 1.1 million meals through 64 charities and if their tenancy is approved their commitment will increase to 1.5 million meals being distributed with over 100 charities being supported.
- 3.3. They work with over 400 food industry businesses and will leverage their contacts to offer business coaching, mentoring and employability support for Islington residents. Fareshare is also committed to working with the Council to develop more community kitchens.
- 3.4. The Corporate Landlord Service will manage the service charges and operational costs for the space, ensuring prompt payment by FareShare as well as the social value commitments that would be secured via the lease.

4. Implications

- 4.1. **Financial Implications**
- 4.2. The proposed lease to FareShare removes financial liabilities for the Council for business rates and service charges at 2-4 Old Street Yard EC1Y 8AF for which there is no budget (£183k per annum). The space was recently vacated by an affordable workspace provider following its decision to terminate its contract and lease.

- 4.3. The proposed lease between the Council and FareShare is at a peppercorn rent. The undervalue of the lease has been confirmed as within the £2m limit allowable under the Local Government Act 1972.
- 4.4. The annual business rates liability is estimated at £91k per annum and the service charge at £92k per annum. These will be met by the tenant under the terms of the proposed lease. The tenant will also take on responsibility for meeting all repairs, insurance and utility costs.
- 4.5. The service charge will be levied by Derwent, the landlord, to the Council and will include VAT. This will then be recharged to FareShare including VAT. Reimbursement of the service charges by FareShare will be subject to regular monitoring to allow timely action by the Council if any debts accumulate.
- 4.6. Business rates will be charged directly by the Council's business rates department to the tenant. The payment of business rates will also be monitored on a regular basis to allow timely action by the Council if any debts accumulate.
- 4.7. FareShare is committing to bring significant social value to the borough under the lease. This includes:
- the redistribution of surplus foods to charities to turn into meals. This will increase from the current annual total of 1.1 million meals to 1.5 million meals
 - utilising kitchen space in our community centres to deliver meals in Islington
 - offering business coaching, mentoring and employability support for Islington residents.
 - seeking to employ local residents should any vacancies arise.
- 4.8. A credit check has been run on FareShare which indicates that it is in a very stable condition with a very low risk of failure. A review of their most recent financial statements (year ended 31 March 2023) show that they had a healthy balance sheet with reserves of £25.7m and a turnover of £23.1m. FareShare did incur a deficit of £4.1m in 2022/23 but this follows surpluses in each of the previous 4 years.
- 4.9. **Legal Implications**
- 4.10. 5.2.1 Section 123(1) of the Local Government Act 1972 to that prohibits a council from granting leases in excess of 7 years at a rent that is less than best consideration without first obtaining the Secretary of States consent. However, pursuant to the Local Government Act 1972: General Disposal Consent (England) 2003 the Secretary of State provided a general consent for the disposal of land (which would include the grant of a lease) at less than best consideration 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. To rely on the 2003 consent in taking the decision to grant the lease to FareShare at a peppercorn rent the Council must take into consideration how the lease to FareShare could contribute to the wellbeing of Islington or Islington's residents and also what the actual value of the market rent of the premises is in order to assess the extent of the undervalue.

- 4.11. Under the Council's headlease of the premises the Council will need to obtain the the head landlord's consent to the proposed underlease to FareShare.
- 4.12. Although the Council may have the necessary power (Section 123 or a general or specific ministerial consent) to lease the affordable workspace to FareShare at less than market rent consideration, any decision to do so must be taken:
 - (1) reasonably;
 - (2) having considered the market rent and the amount of the proposed undervalue; and
 - (3) with due regard to the Council's fiduciary duty.
- 4.13. **Environmental Implications and contribution to achieving a net zero carbon Islington by 2030**
- 4.14. There are no specific implications arising from the decision to enter into a new lease.
- 4.15. **Equalities Impact Assessment**
 - 4.15.1. 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.
- 4.16. An Equalities Impact Assessment was completed on 29 April 2024 and its main findings were that there were no equality implications in respect of this proposal.

5. Conclusion and reasons for recommendations

- 5.1. The unexpected termination of an underlease has exposed the Council to significant financial liability. It has secured a new tenant – Fareshare – who will both assume all financial liabilities and commit to delivering significant social value across the borough.

Appendices:

Appendix 1 Exempt Heads of Terms

Background papers: None

Final report clearance:

Authorised by:

Executive Member for Finance, Planning and Performance

Date: Date the report received final approval 13 May 2024

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