

Meeting: Overview, Scrutiny and Policy Development Committee

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Title: Office Accommodation Review – Update

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Wards affected: All

1. Purpose of Report

To provide the Overview, Scrutiny and Policy Development Committee with information on a number of outstanding issues and concerns relating to the letting at the Wallsend Customer First Centre as detailed in Paragraph 3 of this report, and that were raised by the Chair and Deputy Chair of the Committee at meetings held on 13th April and 11th May 2017 with relevant officers.

2. Recommendations

The Overview, Scrutiny & Policy Development Committee are asked to note the additional information provided in this report as part of the wider Office Accommodation Review.

3. Details

3.1 When was the lease originally negotiated?

Formal negotiations took place during the latter part of December 2012, and during January 2013, following a meeting of Cabinet held on 10 December 2012, when officers were authorised to finalise the Heads of Terms for the Wallsend CFC letting.

The negotiations were concluded by 7 February 2013, when an Agreement for the lease was signed between the Authority and NewRiver.

The lease for the property subsequently commenced on 24 January 2014, following lead in planning, preparation and fit out works.

3.2 What are the terms of the lease?

The main terms of the lease are:-

Term - 30 years.

Commencement Date - 24 January 2014

Initial Rent - £363,353 per annum.

Rent Reviews - The rent is reviewed annually in line with the Retail Price Index.

Repairs - All internal maintenance and repairs (e.g. escalator, lift, carpets, fixtures and fittings, etc) are the Authority's responsibility.

The Landlord has a legal obligation to maintain the roof and external walls of the building.

Permitted Use - As a library, a customer service centre within class B1 and/or D1 of The Town & Country Planning Act (use Classes) Order 1987, and ancillary thereto for a coffee shop and ancillary retail within Class A1 of the Order.

Alienation - The Authority can transfer the lease for the whole but not part only of the premises.

The Authority can sub-let specific parts so long as these relate to the whole of a part, i.e. the whole of the 2nd floor void.

The Authority can sub-let for permitted uses within the existing user provisions. If a proposed sub-letting does not fall into the permitted use description then this requires absolute consent of the Landlord and in turn they can ask for a capital or revenue payment for providing the necessary consent.

3.3 What was the original timeline from the commencement of the lease to occupying the building?

The Authority took possession of the building immediately after the commencement of the lease on 24 January 2014. The CFC opened for business on 28th February 2014.

The Authority's commitment to take the lease of the property was formalised when the Agreement for Lease was signed the previous year on 7 February 2013. No rent was payable during the period of the Agreement for Lease as this covered the period of the Landlord's fit out works.

3.4 Why are we paying a 30 year rental at high cost?

The initial cost to the Council of occupying the ground and first floor accommodation equated to £115 per square metres for an area of 3158 square metres based on the opening rent of £363,000 per annum.

This was considered to be an acceptable rate per square metre for a fitted out "turn key" facility with the landlord incurring the additional cost of approximately £306,000 over and above standard fit out costs to meet with the Authority's CFC requirements. This included the following items:-

Smart Serve Kiosk
Central display module
Information points
Library shelving
Directional signage
Loose seating

Comparable evidence to support this letting has previously been presented to the Committee in the report of 4 February 2014, which included the following:-

- Quadrant West – 23 year lease from 2009. Rent in 2014 was: £636,774 (£122m² / £11.33sqft) subject to fixed annual increases of 2.6% per annum.
- John Willie Sams Centre (fully serviced accommodation), Dudley – 27373 sq. ft. or 2543m²= £872.1k budget per annum, which is £32/sq. ft. or £343/m². PFI related lease delivered through NNT LiftCo

Should the Authority take occupation of the second floor for its own use then the equated rent will drop to a level of £78 per square metre as no additional rent is payable in these circumstances.

3.5 What is the specific cost of renting the building for 2016/17?

- The current rent for 2016/17 is £375,205k per annum
- The current service charge payable is £17,000k per annum

3.6 When did the Council know there were difficulties in letting the Centre?

Following the commencement of the lease in January 2014, Wallsend CFC was one of the properties included within the scope of the Capita Accommodation Review. This ongoing review considers options for all of the Authority's main operational buildings to assist in reducing revenue costs associated with them such as letting opportunities for the second floor of Wallsend CFC.

Following a firm expression of interest in the second floor accommodation by Northumbria Healthcare Trust (NHCT), Capita held discussions with the organisation during 2016 in respect of a proposal to take a sub lease to accommodate a number of health facilities including local GP practices. Regular updates on these discussions were provided to the Strategic Property Group over the same period of time.

As this proposal fell outside of the permitted use, Landlord's consent was required. The level of capital payment subsequently proposed by the Landlord for providing the consent made the proposal financially unviable.

Whilst the proposed NHCT letting revealed a difficulty with this particular proposal during 2016, Capita will continue to consider alternative options for the accommodation including the Authority's own potential use. If any other

occupier shows a firm interest in the accommodation then the Landlords requirements for providing consent may be more favourable.

3.7 Are the restrictions a quantifiable cost to the authority?

There is no additional rental cost to the Authority if it wishes to bring the second floor back into use for its own purposes other than any fit out work that will be required.

Should the Authority identify an alternative third party occupier, then the cost will be the difference between the rent received by the Authority for the space, and the premium or revenue stream the Authority is expected to pay the Landlord for consent for a relaxation of the user clause.

However, the Authority is likely to want to be in a positive financial position through an acceptable sub-letting in order for it to proceed.

3.8 What has been the impact of the lease? Is it prohibitive and restrictive, have the prohibitive and restrictive clauses in the lease resulted in a loss of income?

The sub-letting of the second floor space is restricted by the need to obtain Landlords consent for any use that falls outside of the permitted use detailed in the lease. This is not an unusual requirement.

In respect of the potential letting to Northumbria Healthcare Trust this did prove restrictive because it was the level of premium required for the Landlord's consent which made the scheme unviable.

There is still potential to rent the space for an alternative use in respect of which the Landlord's consent may be available on more favourable terms and therefore less restrictive.

In this respect, we understand that NewRiver and the Authority's immediate Landlord have an on going commercial arrangement and that is why NewRiver contend that they can influence the Landlord to provide reasonable terms for the necessary consent if another suitable tenant can be identified.

3.9 Reports were provided to Overview & Scrutiny since 2014 and why is the issue of the use "clause" within the lease only coming to light now?

The negotiations with the Landlord over the proposed letting to Northumbria Healthcare Trust highlighted the difficulty in obtaining reasonable terms for providing their consent for that particular potential sub-letting.

This situation was emerging through 2016, and regular updates were provided to the Strategic Property Group as required under the current governance arrangements. As the discussions progressed with the Trust and the Landlord, the issue of the user clause was confirmed in the report to the Overview, Scrutiny and Policy Development Committee on 7th November 2016.

Prior to that there had been no firm interest in the second floor from prospective tenants and no approach made to the Landlord in respect of any potential sub-letting.

3.10 Classification of Permitted Use

The breadth of uses proposed by the health partners, did not fall within Use Class D1, and as a consequence the overall user classification was to be considered *suis generis* requiring the full consent of the Landlord to the sub-letting.

3.11 When did the new Landlord take over the CFC?

NewRiver granted Legal and General Assurance (Pensions Management) Limited an intermediate lease of the premises for a term of 250 years from 26th March 2014.

This is when Legal and General effectively became the Council's immediate Landlord.

The Authority has no influence over how NewRiver wishes to deal with its interest in the property.

3.12 When did the Authority commence renting the premises?

At the start of the lease on 24 January 2014.

3.13 What was the original intention of the Authority in the use of the premises?

- To bring together a range of services under one roof to give customers better access to Authority services and provide improved value for money.
- To make a positive statement to both the traders of Wallsend and the local community that the Authority was committed to supporting the town centre through the then economic downturn and beyond.
- To assist in generating additional footfall into the Forum Shopping Centre and assist giving the town centre a more sustainable long term future.

3.14 What were the originally negotiated lease terms and were these the best terms?

At that point in time, the terms finally agreed in respect of the letting as outlined in Para. 3.2 of this report were considered to be the best that could be achieved in order to secure a long term leasehold interest in a new Customer First Centre specifically located in central Wallsend.

The strength of the Authority's covenant enabled it to secure a "turn key" facility with NewRiver incurring substantial up-front fit out costs in advance of the lease commencement date. The company may not have been prepared to do this for a tenant with weaker financial standing.

3.15 What has taken place over the previous three years?

Wallsend CFC has been one of the properties included within the scope of the Capita Accommodation Review which considers options for all of the Authority's main operational buildings to assist in reducing revenue costs.

The only firm expression of interest has been from Northumbria Health Care Trust during 2016 and the proposed sub-letting of the 2nd floor.

3.16 What has prevented the Council utilising all of the space?

Nothing has prevented the Council from utilising all of the space other than its own service requirements and potential fit out costs.

If the space is utilised by the Authority then the overall rental rate for the building drops to £78 per square metre although it is accepted that there will be other revenue implications such as an increase in Business Rates and running costs.

3.17 What is the likelihood of using the space in the future?

Officers will continue to promote the availability of the second floor accommodation for suitable uses. It may also be necessary for the Authority to consider the use of this space as part of the wider Accommodation Review.

It is anticipated that the Landlord will be more amenable to giving consent if a compatible use can be found.

3.18 To articulate the decisions and the rationale for taking the decisions.

The development of the Wallsend Customer First Centre dates back to the Customer Services Delivery Plan agreed by Cabinet in November 2007; the Strategic Development Framework Plan agreed by Cabinet in September 2009; and the Customer First Strategy for 2011-15 agreed by Cabinet in December 2010.

In June 2012, Cabinet received a report regarding the improvement of town and local shopping centres. This report highlighted the temporary relocation of the Wallsend Customer Service Centre into the Forum Shopping Centre in Wallsend while options were being pursued to relocate the Wallsend library into the same location.

The recommendations to agree the negotiation of the Heads of Terms and subsequent lease; sanction the revenue growth bid through the Financial Planning and Budget process required; and to enter into appropriate legal agreements to progress the use of the upper floors of the former Co-op building in Wallsend Town Centre; were agreed in the report to Cabinet dated 10th December 2012.

3.19 To understand the impact of these decisions.

The opening of Wallsend CFC has been seen as a catalyst that has encouraged the further regeneration of Wallsend Town Centre.

The Authority was able to vacate the following buildings:-

- Park House Housing Office – Now affordable homes
- Wallsend Town Hall – Now a Business Centre – also linked with the delivery of affordable homes on the former Police Station Site.
- The former Wallsend Swimming Baths – Now occupied by an energy renewals company following their expansion in Wallsend. The company has also developed private homes on part of the site.
- Wallsend Library – Now a Children’s Nursery with specialist sensory facilities.

Private sector investment is an essential component in the effective delivery of urban regeneration. The CFC provided a catalyst to increased footfall to the town centre providing opportunities for linked trips which has spun off on the vitality and vibrance of the Forum shopping centre. Prior to the CFC opening Wallsend Town Centre had a vacancy rate of 17.4%. Today with the multi million pound investment by the likes of JD Weatherspoons, Aldi and Burger King in the town, the vacancy rate has dropped to 14.2%. This has also brought wider employment opportunities with over 100 new jobs being provided and an improved parking provision of free space for over 200 more vehicles. NewRiver report that footfall to the town centre is up more than 25% from 2012.

Wallsend CFC Outcomes:-

- Since opening Wallsend CFC has issued just under quarter of a million items (248,512)
- The centre has received over million visitors (1,145,333). Over five thousand people have joined the library (5,050)
- There have been over one hundred and forty thousand public access computer logins (141,064)
- Over twenty thousand children (20,423) and twenty five thousand adults (25,455) have attended events held in Wallsend.

2016/17 has been the CFC’s busiest year so far with 372,135 visitors - and the centre is in a good position to continue to thrive and build upon its success.

A state of the art Changing Places facility has been installed in the Centre and additional baby changing facilities have also been located in the Ladies and Gentlemen’s toilets.

The CFC has established good links with the Locality Team and activities within the building include:-

- Breast Feeding support group (Wednesdays)
- Stay and Play (Tuesdays)
- Saving a baby’s life classes
- Developing the existing groups/activities
- Birth registrations
- Food bank donations

Room bookings continue to increase. As well as regular bookings e.g. Slimming World, there has been an increase in one off and short term bookings such as:-

- British Heart Foundation
- Barnardo's
- Northumbria Health Care
- NT Carers
- Saxophone lessons

A planned series of joint activities have been identified by the Wallsend Action Group (building tenants) where the teams working in the building will undertake joint ventures.

These will include:-

- Dementia Awareness Week
- SAFE week
- Summer Tea Dance
- Carers week
- Armed Forces Day
- Wallsend Festival
- Health Information Week
- World Kindness Day
- International Men's Day
- Make Christmas Special.

There are various self run groups which meet in the CFC each week all of which contribute to the health and wellbeing of the local population including:

- Knit and Natter
- Art Group
- Diamond Club
- LAY (Look After Yourself)
- Job Club

Additional space is available to the Authority for its own use should this be a requirement of the ongoing Accommodation Review.

3.20 To agree an approach moving forward/ Lessons learnt.

Since the time the original lease was agreed, the Elected Mayor has put in place robust governance arrangements to oversee strategic property related matters.

This has been through the creation of the Investment Programme Board (IPB) and the Strategic Property Group (SPG). These two groups provide extensive scrutiny relating to all strategic property matters and therefore any new letting proposal would be subject to scrutiny by the Strategic Property Group and the Investment Programme Board before being endorsed by Cabinet if required.

IPB Membership

The Deputy Mayor

The Cabinet Member for Finance and Resources (Chair)

The Deputy Chief Executive

The Head of Environment, Housing and Leisure

The Head of Business and Economic Development

The Head of Commissioning and Investment

The Head of Finance

Capita Business Director – North Tyneside Partnership

Senior Manager - Housing Property and Highways Investment

Senior Manager – Strategic Investment & Property

IPB Terms of Reference

Purpose

- To provide strategic leadership for all of the Council's capital project activity
- Oversee the entire programme
- Provide a gateway to inclusion of the programme ensuring funding and resources are in place.
- Line of sight on the delivery of the programme ensuring programme and project managers are accountable for the delivery of their work.

Scope

The Group will consider the entirety of the Council's capital investment. This means:

- The Housing capital programme
- The Education capital programme
- The Council's Buildings and Regeneration capital programme
- The Highways and Infrastructure programme

SPG Membership

The Elected Mayor (Chair)

The Deputy Mayor

The Cabinet Member for Housing & Transport

The Cabinet Member for Finance and Resources

The Chief Executive

The Head of Environment, Housing and Leisure

The Head of Business and Economic Development

The Head of Commissioning and Investment

The Head of Finance

Capita Business Director – North Tyneside Partnership

Head of Property (Capita)

Senior Manager - Housing Property and Highways Investment

Senior Manager – Strategic Investment & Property

Strategic Property Manager

Affordable Homes Project Manager

SPG Terms of Reference

- Provide robust governance to all strategic property decisions.

- Recommend to Cabinet sites for retention, disposal or development.
- Oversee the delivery of capital receipts.
- Oversee the delivery of key property projects:
 - Affordable Homes Programme, Depot Delivery, Commercial and Industrial Review, Office Accommodation Review
- Ensure a direct connection between retained property assets, the Council's policy priorities and its capital receipts requirement.