



Mayor & Cabinet

Report title: Leases for supported housing sites

Date : 21 June 2023

Class: Part 1

Key decision: Yes

Ward(s) affected: All

Contributors: Commissioning Manager Supported Housing, Assistant Director- Adult Integrated Commissioning

Outline and recommendations

This report recommends that Mayor and Cabinet give permission to grant 30 year leases for the sites for 2 current supported housing projects currently owned by the Council, to appropriate one site from the Housing Revenue Account to the general fund, and delegate authority for further decisions to the Executive Director for Community Services, in consultation with the Director of Inclusive Regeneration and Executive Director for Corporate Resources and the Director of Law and Corporate Governance, to support better stewardship of the Council's assets in this area.

Timeline of engagement and decision-making

Date	Engagement / decision making
November 2021	asset review board
November 2022	asset review board
December 2022	Community Services and Housing, Regeneration and Public Realm Directorate Management Teams

1. Summary

- 1.1 This report concerns 2 key supported housing services on sites owned by the Council. These are vital services for some of the borough's most vulnerable residents, and to meeting some of the borough's key strategic objectives. These sites have over time become out of date, dilapidated and in need of refurbishment.
- 1.2 The report recommends that Mayor and Cabinet give permission to appropriate the Lewisham Assessment and Recovery Site from the Housing revenue Account (HRA) to the general fund.
- 1.3 This report recommends that Mayor and Cabinet authorise the grant of 30 year leases on each of these sites, to support their long term management, and the realisation of external investment opportunities to support refurbishment and development to better meet the Council, residents and partners' needs. To support this aim the report recommends delegating authority to the Executive Director for Community Services in consultation with the Director of Inclusive Regeneration and Executive Director for Corporate resources to finalise the lease terms.

2. Recommendations

- 2.1 This report recommends that, subject to the Secretary of State's approval, Mayor and Cabinet approve the appropriation of the Lewisham Assessment and Recovery Site from the Housing revenue Account (HRA) to the general fund and authorises an application to the Secretary of State to consent to this appropriation.
- 2.2 This report recommends that Mayor and Cabinet give permission to negotiate up to 30 year leases for the below sites:
 - 2.1.1 subject to the Secretary of State's consent to appropriate the site to the General Fund, Lewisham Assessment and Recovery Centre site to St. Mungo's
 - 2.1.1 Perry Vale supported housing site to Metropolitan and Thames Valley Housing Trust (MTVHT)
- 2.3 The report recommends that Mayor and Cabinet delegates authority to the Executive Director for Community Services in consultation with the Director of Inclusive Regeneration and Executive Director for Corporate Resources and the Director of Law and Corporate Governance to agree the detailed lease terms and enter into the final form leases, provided where the rent is less than market value these fall within the General Consent.

3. Policy Context

- 3.1 The Prevention, Inclusion and Public Health Commissioning Team's (PIPHCT) supported housing funding is an important strand in the delivery of many government priorities. It plays a key role in delivering national strategies such as the; Reducing Reoffending National Plan, the new National Drugs Strategy, and the National Statement of Expectations for Supported Housing.
- 3.2 The proposed grant of lease to support these services meets the corporate strategy 2022/25 as follows:

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- 3.3 Children and Young People. The supported housing provision procured and monitored by the PIPHC Team contributes to ensuring the most vulnerable children and young people are protected from harm. Supported housing gives options for supporting young people leaving care.
- 3.4 Quality Housing. The recommendations in this report will support improvement of supported housing provision procured and monitored by the PIPHC Team, which gives people with support needs safe, comfortable accommodation that they can be proud of and happy living in. This increases the offer of safe and comfortable accommodation to more of Lewisham's residents.
- 3.5 Safer Communities. The services commissioned by the PIPHC Team work to prevent people entering the criminal justice system, including young people. Supported housing services work as part of the Safer Lewisham Partnership's Public Health approach to youth violence, aiming to reduce knife crime and sexual exploitation.
- 3.6 Health and Wellbeing. Recommendations in this report will support improvement of services commissioned by the PIPHC Team, in particular their work to improve health outcomes through more psychologically informed environments and improved access to health services.

4. Background

- 4.1 The Prevention, Inclusion and Public Health Commissioning Team (PIPHCT) commissions a range of floating & accommodation-based support services to meet the needs of homeless service users who require support to manage and maintain their accommodation.
- 4.2 PIPHCT work to align services with the ambitions of Lewisham Council working with external and internal partners including Housing, Children's and Adult Social Care, Southeast London Integrated Care Board (ICB) and South London and Maudsley (SLaM) mental health trust, to improve access to and strategic utilisation of supported accommodation & floating support services.
- 4.3 The physical environment of these services is vital to meeting the Council's ambitions for its residents as described above. Historic lease arrangements have contributed to the current position, and the sites are in need of significant investment
- 4.4 The Council's ability to invest capital is limited. Specialist Housing Associations in this sector have the expertise in this area, as well as potential opportunities to invest themselves and secure additional investment to improve these sites and the service they host for Lewisham's residents

5. Sites and services concerned

- 5.1 Lewisham Assessment And Recovery Centre (LARC)
 - 5.1.1 St Mungo's has been delivering the LARC support contract at Pagnell Street for a number of years and has, since April 2019, held a new 5 year contract to deliver the borough's assessment centre for the single adults' pathway. St Mungo's also holds supported housing contracts at Spring Gardens and Newstead Road, and deliver the GLA funded No Second Night Out service from the Hither Green site.
 - 5.1.2 The Council owns the Pagnell Street site which is held in the Council's Housing Revenue Account. Historically lease arrangements have mirrored the service contract

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length on a full repairing lease only - with cyclical improvement and replacement works remaining the liability of LBL. The building, as a result of short term lease arrangements, is in significant need of capital investment and improvement work. The short term lease will also mean the provider will not invest into the building beyond the current lease terms (full repair). Currently the cyclical improvement and replacement liability sits with LBL.

- 5.1.3 As part of the Council's COVID pandemic response, all services and service users were risk assessed through a multiagency process led by Lewisham Public Health. Both the LARC site and its service users were assessed as at the highest possible level of risk, underlining the need for improvement of the site.
- 5.1.4 The issuing of a 30 year lease will give certainty to the Council and provider, and remove the risk to the Council associated with cyclical improvement and replacement responsibilities. The lease granted will be a full repairing and insuring lease, i.e. the costs of all repairs and insurance will be the responsibility of the tenant.
- 5.1.5 The site was considered as part of an options appraisal taken to the asset review board on 1 November 2021 that considered options for the site and re-provision and concluded refurbishment in situ remained the preferred option. This was reconfirmed at the asset review board 6 October 2022
- 5.1.6 The lease will contain mutual rights to break (terminate) the lease on expiry of the current contract (31st March 2025). Aside from the full repairing obligations in the lease, there will be no obligation on the tenant to undertake improvement or refurbishment works and the Council will not have a decisive influence over any refurbishment works undertaken.

5.2 Perry Vale young people's supported housing service

- 5.2.1 SHP have been delivering the service since 2019 and it is the higher needs medium term supported housing option in the young persons' pathway. The service is made up of five buildings with varying levels of staff cover, Perry Vale is the largest 24 hour building in the service.
- 5.2.2 Perry Vale is vital because it offers the highest support option in the Pathway for some of Lewisham's most vulnerable young people. This is a supported housing option for both Care Leavers and homeless 16 and 17 year olds, both of who are priority groups.
- 5.2.3 This service offers an important alternative to Semi Independent Accommodation (SIL) placements. In 2021 Lewisham officers in Children's Social Care assessed their spend on (SIL) for Care Leavers. On average the spend per week was £1,106 per person. The average spend for each unit in the Lewisham Young Persons Supported Housing Pathway was £240 per week, a difference of £866 per week per unit.
- 5.2.4 The site for this service has been managed by Metropolitan and Thames Valley Housing Trust (MTVHT) throughout that time. The lease is due for expiry on April 2025, with a full repair and improvement responsibility to MTVHT. The current liability of this has been assessed as £400,650.
- 5.2.5 There are opportunities for significant improvement of that site. Issuing a longer lease, with the minimum requirements and liabilities of the previous lease, allows the opportunity for the provider to take a longer term view of the needs of the building and opportunities for improvement. This also offers the opportunity to use the existing liabilities as match funding to secure additional investment.
- 5.2.6 The lease will contain mutual rights to break (terminate) the lease on expiry of the

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current contract (31st March 2025). Aside from the full repairing obligations in the lease, there will be no obligation on the tenant to undertake improvement or refurbishment works and the Council will not have a decisive influence over any refurbishment works undertaken. The tenant will be responsible for rectifying any dilapidations at the expiry of the term.

6. Rationale

- 6.1 The physical environment of these services is vital to meeting the Council's ambitions for its residents as described above. Historic lease arrangements have contributed to the current position, with a number of these sites dilapidated and in need of significant investment.
- 6.2 The Council's ability to invest capital is limited. Specialist Housing Associations in this sector have the expertise in this area and potential opportunities to invest themselves and secure additional investment to improve these sites and the service they host for Lewisham's residents.
- 6.3 The market for providers to take on leases for building in this sector is increasingly limited, with a number of providers exiting the market in this period, locally and nationally. Providers have also become increasingly risk averse in formally tendering for services with responsibility for associated buildings, and this was cited by providers consulted as the reason for not bidding for a Lewisham procurement for mental health supported housing in 2021.
- 6.4 Through issuing a longer lease, this will remove the Council's cyclical improvement liabilities over this period, and incentivise the Lessee to invest in longer term strategies for improving the buildings, including through realising opportunities for external investment.
- 6.4 A full market rental assessment will be taken out on each property, and rents set at a level that provides best value for the Council on the balance of service outcomes and income.
- 6.5 Through the inclusion of break clauses in these leases, there is the opportunity to test the approach and its benefits and potential disbenefits, and review and take a further decision before committing to the full term of the lease.
- 6.7 The services contracts will expire in April 2025. They will be reprocured through open tender processes conducted by officers in 2024.

7. Financial implications

- 7.1 This report seeks approval from Mayor and Cabinet to transfer the Pagnell Street site from the Housing Revenue Account to the General Fund as this site is no longer required for Housing purposes but for an Assessment and Recovery centre instead.
- 7.2 The report also seeks approval from Mayor and Cabinet to delegate the negotiation of the lease terms, proposed for 30 years, to officers. The financial implications set out consider the impact of transferring the Pagnell Street site from the HRA to the General Fund and details of the current rent for each site.
- 7.3 At present, it is too early to assess the full financial impact of the proposal between forgoing rent in exchange for capital financing, grant and redevelopment costs of the two sites. This will need to be considered in the delegated authority report following negotiations with the new provider. However, in terms of headlines numbers:

* The revised annual rent is £180k for Pagnell Street HRA and £55k for Perry Vale

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* The cost of refurbishment is £2.45m (£2m for Pagnell St £452k for Perry Vale (including £200k which represents the maximum loss on subsidence)).

* Any decision on rent forgone, over up to a 30 year period will be considered against the total capital investment and any grant e.g. GLA that the new providers will be able to secure to support the financing requirements of the site. This will include any negotiations on rent for both properties, to support the undertaking of major building works.

Pagnell Street Hostel, 2 Exeter Way London SE14 6LL

- 7.4 This building is owned by the Council and held within the HRA. In order to ensure both operational and accounting requirements are aligned, it is envisaged that this property will be appropriated to the General Fund before the end of this financial year.
- 7.5 This will require Member approval. If approved, an adjustment in the HRA will be required (paragraph 5, Part III of Schedule 4 to the Local Government and Housing Act 1989). This adjustment should recognise the value of the asset moving between GF/HRA, by an increase / decrease in the Capital Financing Requirement (CFR) (debt). The adjustment is based on the "certified value" of the land, which in most cases is the current market value. One fortieth of the value of the debt would be charged to revenue every year.
- 7.6 The current terms of the lease together with the schedule of condition, while full repairing and insuring, does not require the tenant to yield the building back in a better condition than was originally provided. This means that the Council still bears some responsibility for the overall investment need of the building particularly in key areas such as fabric and structure.
- 7.7 The building currently requires significant repairs and while a large part is the tenant's responsibility under the terms of the lease, some will be the Council's responsibility. In addition to the necessary repairs, recent post COVID service changes has meant that there will need to be additional investment in the site to ensure it continues to support the needs of the service users catered for at the site.
- 7.8 The lessee is proposing to apply for a grant from the GLA to cover part of the cost of the overall repairs and investment, with the remaining amount coming from their own resources. In order to do this, a longer lease is required. The Council is supportive of this, in part, to limit the call on Council resources and also to mitigate the risk of losing the service provision in the borough.
- 7.9 The Council has the option of carrying out the repairs itself, which would have to be financed through the Council's capital programme or the HRA capital programme. These costs have not yet been calculated but it is anticipated that it could cost at least £2M. If this were to be the case, a shorter lease could be negotiated within the 21 years permissible and the property could remain part of the HRA.
- 7.10 There is a risk worth noting. If the GLA funding is not forthcoming, the Council may have to fund part of the repair costs itself, though the main cost of the repairs should be funded through the new lease arrangement. Once the property is appropriated, this responsibility would fall to the general fund.
- 7.11 It should be noted that an appropriation of the building from the HRA to the general fund would result in a loss of income to the HRA, currently £125k per annum. This would be reviewed under a new lease. The latest valuation has put the rent level at £185k.

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106 Perry Vale London SE23 2LQ

- 7.12 This building is owned by the Council and is held in the general fund. The lessee will also be seeking external match funding to significantly improve the site.
- 7.13 A dilapidation survey was undertaken by the lessee which estimated repairs at £221k, with a further estimate for structural works of £31k. There was also a 'maximum loss on subsidence' value of £200k.
- 7.14 A full market rental assessment has been taken out on each property, and a proposed value is included in the draft heads of terms attached to this report as appendix 2. The rental value for Perry Vale is £55k.
- 7.15 Officers will negotiate with the lessees from this point, and agree rents set at a level that provides best value for the Council on the balance of service outcomes and income. It is important to note that the nature of supported housing services is such that they do not always operate to maximal rental incomes.
- 7.16 The services contracts will expire in April 2025. They will be reprocured through open tender processes conducted by officers in 2024.
- 7.17 It is proposed that authority to agree any variation to the lease and rental terms be delegated to the Executive Director for Community Services in consultation with the Director of Inclusive Regeneration and the Executive Director for Corporate Services, which will include detailed consideration of the above financial implications.

8. Legal implications

- 8.1 The Council has a general power under s.1 of the Localism Act 2011 to do anything which an individual may generally do.
- 8.2 Expenditure and income relating to property listed in section 74 of the Local Government and Housing Act 1989 must be accounted for in the Council's Housing Revenue Account. This comprises mostly housing and other property provided by authorities under Part II of the Housing Act 1985. Properties which may originally have been provided under one of the powers in section 74 of the Local Government and Housing Act 1989 may no longer fulfil their original purpose. In these circumstances, the authority should consider their removal from the HRA by appropriating the property to a different purpose. The Government's Ring Fence Guidance gives examples of properties which might fall into this category, being estate shops and other commercial premises, such as banks, post offices, workshops, public houses, industrial estates and surgeries, where there is no longer any connection with the local authority's housing. The Pagnell Street property is currently held within the Council's Housing Revenue Account and it is proposed that the property is appropriated to the General Fund prior to the grant of lease. Pursuant to section 122(1) Local Government Act 1972, the Council must be satisfied that the land no longer fulfils in order for it to be removed from the Housing Revenue Account. Where such land comprises a house or part of a house (including flats, lodging houses and hostels) the Council must first obtain the consent of the Secretary of State (section 19(2) Housing Act 1985). If land is transferred between the HRA and the General Fund, an adjustment in the HRA will be required (paragraph 5, Part III of Schedule 4 to the Local Government and Housing Act 1989). It should be noted that, although property can be transferred for accounting purposes between the HRA and the General Fund (subject to obtaining any necessary Secretary of State consent), in legal terms there is no transfer or lease of the property

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because the Council's HRA and General Fund are not separate legal entities and the Council cannot contract with itself.”

- 8.3 A specific power exists under s.123 of the Local Government Act 1972 for the Council to dispose of land, subject to this being for the best consideration reasonably obtainable. A general consent is available for disposals at an undervalue, provided the provisions of Circular 06/03: Local Government Act 1972 general disposal consent (England) 2003 are complied with. Before disposing of any interest in land the Council is advised to ensure that it obtains a realistic valuation of that interest, following the advice provided in the Technical Appendix to the Secretary of State's "Circular 06/03.: Local Government Act 1972 general disposal consent (England) 2003 disposal of land for less than the best consideration that can reasonably be obtained.”
- 8.4 Each lease will be a full repairing and insuring lease, i.e. the costs of all repairs and insurance will be the responsibility of the tenant. There will be no obligation on the tenant in the lease or otherwise to undertake improvement or refurbishment works to the premises beyond the usual repair obligations. Any works that are proposed will be subject to the Landlord's consent, although the Council will not have a decisive influence over any improvement works undertaken. This ensures that the relationship remains one of landlord and tenant, rather than being construed as a contract for works which would be regulated by the Public Contracts Regulations 2015.
- 8.5 Given the proposed cumulative value of the disposals contemplated in this report, the decision is a Key Decision meaning that the Council's key decision procedure must be followed. The Council's Financial Regulations require that all negotiations in respect of the leases to be granted must be conducted either by or under the supervision of an appropriately qualified officer or adviser (the Executive Director for Corporate Services and the Director of Law and Corporate Governance) who shall expressly be required to approve any proposed terms in advance and thereafter the terms tentatively agreed.
- 8.6 Any future procurement of services as envisaged in this report must comply with both procurement legislation and the Council's constitutional provisions then in force.

9 Equalities implications

- 9.1 Equality Analysis Assessments have been completed for the Mental Health & Single Adults Pathway, and for the Young Persons, Single Adult pathways.
- 9.2 These assessments have been completed using the methodology and approach set out in Lewisham Corporate Equalities policy in line with the Equalities Act 2010.
- 9.3 It assessed the proposals in line with the Equality Act 2010 and considered the potential impact on all of the nine protected characteristics.
- 9.4 One of the key quality criteria measured during any framework commissioning process is "*Processes for addressing equality and diversity*". The criteria will continue to be measured for all future commissioning.
- 9.5 All the services contained in this report will be specified to record and report demographic data to better monitor trends and gaps in supported housing service provision.
- 9.6 These services will accommodate and support people with a range of support needs, who suffer from significant exclusion and unequal outcomes in a number of areas. The service users will be supported to progress in their lives holistically and to improve their

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situation in a number of areas, and will prepare them to live with increased independence in the community.

10 Climate change and environmental implications

- 10.1 The Council has made a commitment to making the borough carbon neutral by 2030.
- 10.2 The extension to the supported housing contracts listed in this report will not have any negative impact on the rate of energy consumption or increase of carbon admissions.
- 10.3 Supported housing service buildings are maintained by various landlords. The energy efficiency of services etc will be discussed in contract monitoring meetings and assessed during Quality Assurance visits.
- 10.4 Recycling should be proactively promoted in supported housing services and will be monitored during scheme visits and will be discussed with residents.

11 Crime and disorder implications

- 11.1 Provision of suitable supported accommodation links directly to the delivery of S17 of the Crime and Disorder Act. Section 17 of the Act recognises that there are key stakeholder groups who have responsibility for the provision of a wide and varied range of support services to and within the community. In carrying out these functions, section 17 places a duty on partners to do all they can to reasonably prevent crime and disorder in their area.
- 11.2 The purpose of section 17 is simple: the level of crime and its impact is influenced by the decisions and activities taken in the day-to-day of local bodies and organisations. The responsible authorities are required to provide a range of services in their community. Section 17 is aimed at giving the vital work of crime and disorder reduction a focus across the wide range of local services and putting it at the heart of local decision-making.
- 11.3 Research by the Home Office has shown that stable housing is a significant factor in reducing the likelihood of people re-offending. For example, stable accommodation reduces the potential for committing further crime by offenders within the community by about 20%. The Supporting People Framework Agreement, which has been used to procure services, reduces risk to offenders and the community and therefore benefits community safety and cohesion.

12 Health and wellbeing implications

- 12.1 Improvement of the supported housing services detailed in this report will have a positive impact on health, mental health, and wellbeing by providing housing with support to homeless vulnerable service users in the borough.
- 12.2 These supported housing services will have a positive impact on social, economic and environmental living conditions that indirectly affect health by providing good quality accommodation with support to address health issues early on and to ensure wrap around services are in place.

13. Social Value

- 13.1 The services listed are delivering support to vulnerable residents in the borough independently of local authority funding, promoting a range of social value in the

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borough. Further the delivery of the Council's wider Social Value forms 10% of the tender scoring when these services are reprocured.

- 13.2 The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors and subcontractors engaged by the council to provide works or services within Lewisham pay their staff at a minimum rate equivalent to the LLW rate. Contractors are expected to meet LLW requirements and contract conditions requiring the payment of LLW will be included in the service specification and contract documents.
- 13.3 The incorporation of Social Value into Lewisham contracts will significantly help the Council to deliver on its strategic corporate and Mayoral priorities and deliver added value for the borough as a whole.

1.4 14. Background papers

<https://councilmeetings.lewisham.gov.uk/documents/s108250/Permission%20to%20procure%20and%20extensions%20for%20Mental%20Health%20Supported%20Housing%20FINAL.pdf>

1.5 15. Report author(s) and contact

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Comments for and on behalf of the Executive Director for Corporate Resources: Shola Ojo, strategic business partner

Comments for and on behalf of the Director of Law: Melanie Dawson, Principal Lawyer – Place.

Appendix 1 Draft LARC heads of terms



Appendix 1 HOTS
Pagnell st hostel 03.

Appendix 2 Draft Perry Vale Heads of terms



appendix 2 HOTS
106 Perry Vale Hoste

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