

AGENDA ITEM: 10 Pages 84 – 88

Meeting	Cabinet Resources Committee
Date	19 October 2010
Subject	Hendon Central Clinic, The Burroughs, London NW4
Report of	Cabinet Member for Resources and Performance
Summary	This report details the terms agreed with Barnet Primary Care Trust for them to relinquish occupation of the Premises at Hendon Clinic to the Council. Subsequently, the property is to be leased to Middlesex University.

Officer Contributors	George Church, Principal Valuer, Property Services
Status (public or exempt)	Public
Wards affected	Hendon Ward
Enclosures	None
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	Not applicable

George Church, Principal Valuer, Property Services, 0208 359 7366

1. RECOMMENDATIONS

- 1.1 That a deed of agreement be entered into between the Council and Barnet Primary Care Trust (PCT), for PCT to cease to occupy the Premises and vacate the same by a date to be agreed, on the terms set out in this report.**
- 1.2 That upon the vacation of the Premises, the Premises be leased to Middlesex University on the terms set out in this report.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 None.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Corporate Plan commits the Council to delivering 'Better services using less money'. A key principle of the medium term financial strategy is to continually review the use of Council assets in order to reduce the cost of accommodation year on year, and to obtain best consideration and use for any surplus assets. This proposal does this by generating an income receipt for the Council and will bring into use a partially used asset.
- 3.2 The Regeneration Service has been consulted and confirmed that the proposals in this report do not adversely impact upon any of the Council's regeneration schemes.

4. RISK MANAGEMENT ISSUES

- 4.1 To avoid the letting to Middlesex University being aborted due to the Council not having vacant possession of the Clinic. Possession of the clinic will be obtained prior to the grant of the lease to Middlesex University.
- 4.2 Should Middlesex University subsequently not proceed with the lease, the Council will have paid the PCT to obtain possession of the premises and not have a tenant. Although this risk is remote, as the University are keen to secure a lease, if the University did not proceed with the lease, the premises would be re-let to a third party, to recover the Council's cost of obtaining possession.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The proposals have been considered and will not give rise to any issues under the Council's Equalities Policy and do not compromise the Council in meeting its statutory equalities duties.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 There are no procurement, performance and value for money, staffing, IT or sustainability implications, as any costs or income will be contained within the Commercial budget. The financial and property implications are set out in section 9 below.

7. LEGAL ISSUES

- 7.1 None, save those contained within the main body of the report.

8. CONSTITUTIONAL POWERS

- 8.1 The Council's constitution, in Part 3, Responsibility for Functions, paragraph 3.6 states the functions delegated to the Cabinet Resources Committee including all matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council.

9. BACKGROUND INFORMATION

- 9.1 The premises is a single storey brick building presently known as the Hendon Central Clinic, The Burroughs, London NW4. The premises formed part of the complex of buildings which included Hendon Town Hall, Hendon Library, a building linked to the Town Hall, together with shared landscaped areas. Both the premises and the other buildings are in the freehold ownership of the Council.
- 9.2 The premises (but not the other buildings) were used by the Council for the purposes of its health functions within the meaning of the National Health Service Re-organisation Act 1973 (the 1973 Act). The 1973 Act aimed, in part, to unify the local administration of the NHS under new Regional and Area Health Authorities. The 1973 Act, provided:
- (i) for the transfer to and vesting in the Secretary of State, all property which on 1 April 1974 (being the "appointed day"), was held by a local authority solely for the purposes of one or more of its health functions, or used by the authority wholly or mainly for the purposes mentioned.
 - (ii) that where property was used for a health function and other local authority functions in equal measure or the other functions represented the majority user, then the local authority retained the freehold but the health authority to have granted user rights. The grant of user rights to be on such terms and for such period as may be agreed by the parties.
- 9.3 On 1 April 1974, title to the Premises remained with and vested in the Council, and title was not transferred to and nor did it vest in the Secretary of State for Health pursuant to the 1973 Act. From 1 April 1974, onwards and by the Council's bare licence the premises were used by the Secretary of State for Health for health purpose.
- 9.4 The PCT, being the successor to the Secretary of State for Health currently occupies the Premises pursuant to a bare licence of the Council. The premises are no longer suitable for use by the PCT and they are therefore prepared to vacate the same, subject to payment of £40,000. This sum has been agreed and represents the reasonable cost to the PCT of moving the remaining services operated there to alternative venues.
- 9.5 Middlesex University are keen to take the Premises and terms for a letting have been agreed. To resolve the situation, officers have entered into discussions with the PCT and PCT has agreed to cease to occupy the premises and vacate the same on the terms set out below.

Premium for the vacation of the premises by the PCT	£40,000.00. In addition, an allowance of £1,000 should be made in case partial clearance of the premises is necessary after the PCT have vacated. The premium will be met from the commercial budget.
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Legal fees:	The Council to pay the PCT's reasonable legal fees.
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Vacant possession:	The PCT will give vacant possession of the premises on completion of the deed of agreement to give possession.
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Condition of the Premises on date of vacation: In its existing condition, clear of rubbish, papers, cleaning materials etc.

Business and water rates and utility costs: To be paid up to the date of vacation.

9.6 Provisional terms have been agreed with Middlesex University for the grant of a lease on the terms set out below. A commercial level of rent will be obtained and the University will be responsible for keeping the premises wind and watertight. Grant of the lease will be subject to vacant possession being secured.

Address: The Clinic, The Burroughs, Hendon NW4 4BH

PARTIES

Landlord: London Borough of Barnet,
Building 4, North London Business Park,
Oakleigh Road South,
London. N11 1NP.

Tenant: Middlesex University,
The Burroughs,
London NW4 4BT.

LEASE

Type: Commercial lease.

Term: 10 years.

Security of tenure The security of tenure provisions of the Landlord and Tenant Act 1954 are to be excluded.

Alienation: Not permitted.

Proposed Use: Class D1 and B1 of The Town and Country Planning (Use Classes) (Amendment). (England) Order 2010.

Rent until the fifth anniversary of the lease commencement date First 12 months, £15,927.00 exclusive of rates. Subsequently, the rent until the first rent review to be £38,225,00 per annum exclusive of rates.

Rent review On the fifth anniversary of the lease commencement date.

Insurance: Landlord to insure and the Tenant to reimburse the premium.

Rates and other outgoings: To be paid by the Tenant.

Repairs and Maintenance: Tenant to keep the premises wind and watertight.

Schedule of Condition	Landlord to supply photographic schedule of condition prior to lease completion
Legal costs:	Each side to bear their own costs.
Right of pre-emption	The tenant to have first right to purchase the freehold of the property at its open market value if the Council chooses to dispose of it.

9.7 The premium payment and income will be contained within the Commercial budget.

10. LIST OF BACKGROUND PAPERS

10.1 None.

Legal – PJ
CFO – MC