

MUNICIPAL YEAR 2019/2020 REPORT NO.

ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

PORTFOLIO DECISION OF:

Cllr Mary Maguire Cabinet Member for Finance and Procurement

REPORT OF:

Executive Director of Place

Agenda – Part: 1	KD Num: n/a
Subject: To grant Lease and Grant Agreement to PECDT for the Ponders End Qube at Eagle House Car Park	
Wards: Ponders End	

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1. EXECUTIVE SUMMARY

- 1.1 This report seeks authority to grant a lease for the Ponders End Qube to the Ponders End Community Trust (PECDT) (Company limited by guarantee 04464396)
- 1.2 The lease is to be for a period from completion until 19 December 2020, subject to a landlord's quarterly rolling break clause to be effective 6 months after completion subject to 3 months prior written notice.
- 1.3 The lease shall be contracted outside of the security of tenure provisions of the Landlord and Tenant Act 1954 pt2.
- 1.4 Refer to Part 2.
- 1.5 The Qube has not been offered to the market however and as required under the Council's Property Procedure Rules (PPR's) there needs to be exceptional circumstances to justify leasing a property without advertising it on the open market. Such circumstances are applicable in this case and are set out within the report

1.6 Refer to Part 2

2. RECOMMENDATIONS

That the Cabinet Member for Finance and Procurement and the Director of Property & Economy approves:

- 2.1 The grant of a lease to PECDT in accordance with property procedure rules for the Ponders End Qube as set out in the part 1 & 2 reports
- 2.2 Refer to Part 2

- 2.3 The entry into into any ancillary documents in connection with 2.1 and 2.2
- 2.4 The entry into a grant agreement with PECDT to assist it to deliver the outcomes and outputs (as more particularly detailed in the part 2 report)

3. BACKGROUND

- 3.1 The Ponders End Qube Meanwhile Use was a Ponders End Town Team initiative to bring activity and vibrancy to the High Street. The Town Team initiative was initially funded by the Outer London Fund Round 2 (OLF2) Greater London Authority Grant. The Team were unable to deliver the initiative within the timeframe of OLF.
- 3.2 Subsequently, Lovell Partnerships Limited who are the Councils' development partner for the Electric Quarter Regeneration Scheme, delivered the Qube meanwhile initiative as part of its wider community engagement programme. The cost of the meanwhile facility is absorbed through the Council's capital land receipt for the Electric Quarter.
- 3.3 The temporary multi-purpose community facility was built at the site of the former Police Station on Ponders End High Street and within the Electric Quarter Phase B site boundary. It opened in spring 2016 and was closed in December 2018 to enable the construction works to commence on Phase B of the Electric Quarter Scheme. The PECDT were in occupation of the Qube at this original location throughout this period and were delivering community events, workshops, engagement meetings and venue hire for the benefit of the Ponders End area.
- 3.4 Following planning consent granted on 18 December 2018 (Planning Application reference 18/03966/RE4), the Qube was relocated into Eagle House Car Park (KD4836) in May 2019 and will remain in situ temporarily until December 2020.
- 3.5 The Ponders End Community Development Trust (PECDT), an organisation of Ponders End community leaders and residents, act as a focal point for local contributions and aims to communicate the views of the Ponders End community. PECDT were managing the Qube and delivering a range of community services over the last 2 years and have a track record of delivery. The PECDT have extensive local knowledge, contacts and support within Ponders End, which is key to accessing hard to reach communities. They are the main umbrella group in Ponders End.
- 3.6 Having been displaced as part of the Phase B redevelopment and having no other assets within the Council's ownership in Ponders End that are available for them to occupy, the Qube at Eagle House Car Park would allow the PECDT to resume providing Ponders End community services. It is intrinsic PECDT specifically be located in Ponders End as the umbrella group for the area and to support the wider local community network. The PECDT are required to operate out of Ponders End as the Trust's status is specifically to do community work/assist residents within Ponders End and nowhere else.

3.7 The purpose of granting them a lease and grant agreement is to ensure the continuity of PECDT's involvement which began at the projects inception and develop capacity within the community. This is a short term project and a lengthy procurement exercise would essentially deem the property empty for most of the term proposed.

3.8 As the main umbrella organisation for groups in Ponders End PECDT have a broad membership of community groups in Ponders End. During time at the Qube their key achievements have been the following:-

- Developed capacity of local groups
- Improved cultural offer by organising festivals, coffee mornings and awareness events
- Worked with local developers in their promotion of developments in the area
- Promoted a healthy lifestyle by co-ordinating health awareness events, fitness sessions, yoga, kick boxing, karate, women only sessions, gardening
- Host ward four meetings at the Qube
- Develop community police surgeries
- Host CAPE meetings
- Organised festivals such as summer, winter and Christmas
- Host meetings that relate to community assets such as Ponders End Park meetings
- Hosted women in Business/politics and heritage events
- Local groups hold their AGMs and fundraisers at the Qube
- Raise revenue through other appropriate activities

3.9 It is intended that a more permanent space is secured following the temporary location at Eagle House Car Park. This short term stop at the Qube will ensure continuity of services provided by the Trust whilst work on a more permanent space is progressed.

3.10 The broad aims of the meanwhile use will remain as follows:

- To provide community space for the community
- To draw people onto the high street and increase footfall
- To promote local business
- To contribute to the economic wellbeing and sustainability of the high street
- Develop capacity within the community

3.11 PONDERS END QUBE

3.12 The Ponders End Qube is a single story prefabricated building that has a gross external floor area of approximately 127 square meters (8.3 meters x 15.3 meters). It contains a large open hall, office, kitchen, 3 toilets and 2 parking spaces. The design is flexible in order to cater for a variety of functions.

3.13 PECDT will make the site available at affordable and competitive rates for the following range of uses:

For local people and groups to hire the space for activities and events

Hire to existing and new enterprises to display their wares and services

3.14 The Qube is currently located at Eagle House Car Park, Ponders End High Street EN3 4DN.

3.15 LEASE AGREEMENT: HEADS OF TERMS

3.16 Refer to Part 2.

3.17 A lease is proposed for the period from completion until 19 December 2020 and will be contracted outside of the security and tenure provisions of the Landlord and Tenant Act 1954 pt2.

3.18 In accordance with the terms set out in Appendix 1

3.19 GRANT AGREEMENT

3.20 In accordance with the terms set out in Appendix 2 (refer to Part 2)

3.21 The Qube was closed in December 2018 to clear the site for construction to commence on Phase B of the Electric Quarter Regeneration Scheme. During the period of closer (6months) local events and activities have been postponed with the exception of some transferred to other venues, where possible.

3.22 Refer to Part 2.

3.23 Refer to Part 2

3.24 A number of outcomes and outputs are expected as part of the Grant Agreement that will benefit groups and the community in Ponders End. These are set out in Appendix 3.

3.25 The terms of the Grant Agreement will mirror where relevant those of the Lease.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1 **Do not grant lease or enter into Grant Agreement**, the building would remain empty or leased to an alternative commercial tenant.

Not to grant a lease and Grant Agreement to PECDT would result in the facility either remaining empty or being used by another commercial activity that does not meet the aims and objectives described in the Ponders End Framework for Change or the Ponders End Central Planning Brief in respect of creating improved facilities for the growing community and cultural needs of the area. The Qube remains an important space for community cohesion and meets the vision for Ponders End

5. REASONS FOR RECOMMENDATIONS

The Framework for Change and Ponders End Central Planning brief has a particular focus at Ponders End to be transformed into a vibrant local shopping centre and community hub, with high quality sustainable development. The PECDT have extensive local knowledge, contacts and support within Ponders End, which is key to accessing hard to reach communities. Having been displaced from the Qube at the Electric Quarter Phase B site, with no other premises available for their relocation, the PECDT will be able to continue providing key community services in Ponders End from the new temporary location at Eagle House Car Park. Granting a lease and grant agreement would compensate for their displacement, relocation costs and it will also ensure the continuity of PECDT's support and service to the community, and their involvement which began at the projects inception to develop capacity within the community.

6. COMMENTS FROM OTHER DEPARTMENTS

6.1 Financial Implications

Refer to Part 2

6.2 Legal Implications

- 6.2.1 The Council has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals may do, provided it is not prohibited by legislation and subject to Public Law principles. The Council therefore has sufficient powers to enter into the transactions envisaged by this report.
- 6.2.2 The Council has a fiduciary duty to look after the funds entrusted to it and to ensure that its Council tax and ratepayers' money is spent appropriately. The Council must carefully consider any project it embarks upon and conduct its affairs in a business-like manner with reasonable care, skill and caution, with due regard to tax/ratepayers' interests. The Council must consider whether the transaction proposed in this report will be a prudent use of the Council's resources and must seek to strike a fair balance between the interests tax/ratepayers on the one hand, and the wider community's interest on the other hand.
- 6.2.3 The Council must comply with all requirements of its Constitution including, in relation to the proposed lease, the Property Procedure Rules which set out mandatory procedures regarding (amongst other things) the disposal of property assets. The grant of lease envisaged in this report is an off-market disposal. The Property Procedure Rules require such disposals to be approved by the relevant Cabinet member. In accordance with those rules, this report contains justification for the disposal as being in the best interest of the Council and written advice, including a market value, from an external registered valuer is appended to this report.
- 6.2.4 The Grant Agreement envisaged by this report will be an agreement to make grant funding available to PECDT (rather than a contract for services to be

provided to the Council) and therefore falls outside the scope of the Council's Contract Procedure Rules.

- 6.2.5 The Grant Agreement will include a requirement for PECDT to use the funding for specified purposes. Officers should robustly monitor spend to ensure compliance with the terms of the agreement. The remedy for failure to comply with the provisions of the grant agreement will be repayment/withholding of the grant.
- 6.2.6 Provided PECDT is not engaged in commercial or economic activities in competition with other market operators, it will not be engaged in economic activity and the state aid rules will not apply. Furthermore, if the total aid from state resources received by PECDT is less than €200,000 over a three-year period, any funding will be within the de minimis threshold and therefore permitted under the state aid rules. It is advised that PECDT be required to confirm that how much funding it has received from the public sector (or from private bodies controlled by the state) during its current accounting year and the previous two accounting years to ensure that the de minimis threshold applies.
- 6.2.7 All legal agreements arising from the matters described in this report must be approved in advance of contract commencement by Legal Services on behalf of the Director of Law and Governance.

6.3 Property Implications

- 6.3.1 The Property Procedure Rules (the Rules):
- Set out mandatory procedures regarding the acquisition, management and disposal of property assets
 - Must be followed when transacting with another party using property in which the Council has an interest
 - Commit the Council to a rigorous and business-like approach to the management of its property assets
- 6.3.2 The Rules are made under the Local Government Act 1972 which provide powers for the Council to arrange its functions and s.1 of the Localism Act 2011.
- 6.3.3 Section 14 sets out the requirements governing:

Disposal - Off Market

There may be instances where a disposal by way of open market sale would not achieve the best consideration reasonably obtainable. Examples include (but are not limited to) sales to a tenant, disposal to a development partner, disposal to an adjoining owner.

Such disposals are subject to a report prepared by the Responsible Senior Officer, and approved by the relevant Cabinet member, that includes:

- Justification for such a disposal as being in the best interest of the Council

- Written advice, including a market value, from an external registered valuer.

It is noted that whilst the Qube was not advertised in the open market Neighbourhood Regeneration have provided justification for the disposal being off market and being in the best interest of the Council.

Strategic Property Services have obtained written advice, including a market value, from an external valuer which confirms that the proposed rent is at a market value.

6.3.4 Section 19 sets out the requirements governing: **Leased-Out Property**

Requirements of the Local Government Act 1972 s 123 (that except with the specific consent of the Secretary of State) the Council may not dispose of land for a consideration less than the best that can reasonably be obtained other than by way of a short tenancy. A short tenancy is one not exceeding seven years.

Leased-out property must be advertised in the open market, and must comply with the process set out in the Operational Procedures. However, there will be instances where letting a property on the open market would not be in the best interest of the Council. Examples include (but are not limited to) providing premises to an individual or organisation that has been displaced by compulsory purchase. In such cases officers will act with due probity, good governance and transparency.

The reports clearly set out the justification to lease the Qube to the PECDT without being advertised in the open market and officers have acted with due probity, good governance and transparency with regard to the proposal.

Accordingly Strategic Property Services fully endorse the proposals as set out within the report

6.4 Procurement Implications - *Procurement Implications provided by Peter Alekkou on 28th August 2019.*

No procurement implications required as the procurement of the Agreement to Lease is subject to the Property Procedure Rules and does not fall within the scope of the Contract Procedure Rules.

7 KEY RISKS

Lease

Risk: Unable to meet rental payments.

Mitigation: There will be sufficient income generated through space hire, events and activities to maintain rental payments as demonstrated in previous years accounts. In addition, the Grant Agreement outcomes include external funding to be secured by the PECDT. The grant provision will support and enable the provider to meet its overall cost of running the facility and alleviate financial burden.

Risk: Unable to maintain building

Mitigation: During the former tenure, the building has required minimal maintenance costs. However, any costs can be met by the revenue and external funding generated and the grant offered.

Grant Agreement

Risk:Unable to deliver community events and activities in the space

Mitigation: The PECDT are a long established umbrella group representing various local groups and equally hold established relationships with groups and organisations in the area. Many of their clients are expected to resume their activities and events at the new location. Developing new business will be a key outcome within the Grant Agreement.

Risk:Unable to generate sufficient match funding to deliver the project

Mitigation: The PECDT are working closely with Council officers and umbrella community support groups to assist them with identifying and attracting external match funding to allow them to realise their vision for this project. Furthermore, they have previously succeeded in securing match funding that demonstrated their ability and experience to do so.

Risk: Reputational risk. Ponders End Qube is used for purposes that damage Councils' reputation.

Mitigation: The lease agreement states that the tenant will have to operate within the permitted D1 consent. Further to this the agreement details prohibited uses such as consumption of alcohol. PECDT will need written consent from the Council if they wish to use the car park for any other purpose other than for car parking.

8. INTERNAL DEPARTMENT IMPLICATIONS/CONSULTATION

Internal Place departments have been involved and consulted where relevant.

9. IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD

9.1 Good homes in well-connected neighbourhoods

Enfield Council are committed to delivering affordable homes in well-connected neighbourhoods. The Qube was relocated off the Electric Quarter Regeneration Scheme site that is delivering on this commitment by ensuring the homes will be a mixture of tenures, sizes, and designs providing housing options for all people living and aspiring to live in the borough and through improvements in infrastructure in accordance with the Councils Corporate Strategy

9.2 Sustain strong and healthy communities

The Qube Meanwhile facility offers a dedicated resource for the local community and promotes healthy lifestyle and wellbeing through a range of dedicated events and activities that are accessible and affordable for all sectors of the community.

9.3 Build our local economy to create a thriving place

Enfield Council is an ambitious Council, committed to creating an enterprising environment for businesses to prosper with world-class digital infrastructure and access to the right skills and networks. The Qube meanwhile facility contributes to this priority by providing a a dedicated space for a variety of activities, events and safe enviroment, help develop stronger communities, a more diverse and vibrant town centre, support residents to take more responsibility in developing active and safe communities, provide opportunities for training and employment and support a diverse group of people from young and old.

10. EQUALITIES IMPACT IMPLICATIONS

The Electric Quarter Ponders End Equalities Impact Assessment (EIA) September 2015 submitted as part of the approved planning application of 26 January 2016 (15/04518/FUL) found that the development scheme has responded positively to delivering a development that will promote equality. The EIA Matrix sets out the positive aspects of the development which are Involvement; Crime, Fear of Crime; An Affordable Home; A Home to Meet Needs; Access to Facilities and Services, Public Transport and Accessibility; The table below also sets out the impact against the nine Protected Characteristics set out in the Equalities Act 2010. Overall the Equalities Impact Assessment proposes development will respond positively to securing a development that promotes equality.

Electric Quarter, Ponders End: Equality Act 2010 Protected Characteristics

Protected Characteristic	Scheme: Electric Quarter	Mitigation
Disability	Positive	Not applicable
Gender	Neutral	None
Age	Neutral	None
Race	Neutral	None
Religion & Belief	Positive	Not applicable
Sexual Orientation	Neutral	None
Gender Re-assignment	Neutral	None
Pregnancy and Maternity	Positive	Not applicable
Marriage and Civil Partnership	Neutral	None

11. PERFORMANCE AND DATA IMPLICATIONS

The Regeneration of Ponders End High Street contributes towards the achievement of:

- Enfield Council Corporate Plan
- Core Policy 41 of the Core Strategy
- Shaping Enfield's Future
- North East Enfield Preferred Options Report
- Ponders End Central Planning Brief (approved for adoption)
- 5a of the Sustainable Community Strategy 2007-2017

- 2.10 “Improve the Quality of life for residents through the regeneration of the priority regeneration areas” of the Enfield Council Business Plan.
- London Plan

12. HEALTH AND SAFETY IMPLICATIONS

The provisions of the Lease and Grant Agreement set out the parameters of the use of the building to safeguard its use from any negative activities that could have impact on health and safety implications. The PECDT is a private company limited by guarantee and are required to operate within the provisions of their liabilities.

13. PUBLIC HEALTH IMPLICATIONS

The Qube meanwhile facility will support health and wellbeing activities and events including yoga sessions, pilates, meditation, exercise classes, health promotion events. Some of these events will be held in partnership with Eagle House Surgery that is located adjacent to Eagle House Car Park. The Surgery along with the CCG are keen to work jointly with PECDT to host community health sessions as part of the national CCG “Care Closer to Home” programme that forms part of the NHS transformation agenda.

Background Papers

- Appendix 1 – Lease Agreement (refer to Part 2)
- Appendix 2 – Grant Agreement (refer to Part 2)
- Appendix 2 – Outcomes and outputs (Refer to Part 2)