

## BABERGH DISTRICT COUNCIL

<b>COMMITTEE: Babergh District Council Cabinet</b>	<b>REPORT NUMBER: BCa/22/43</b>
<b>FROM: David Busby Portfolio Holder Assets &amp; Investments</b>	<b>DATE OF MEETING: 9 January 2023</b>
<b>OFFICER: Emily Atack Assistant Director Assets &amp; Investments</b>	<b>KEY DECISION REF NO. CAB402</b>

### **PARTLY CONFIDENTIAL**

This report is partly open for public inspection as it contains exempt information by virtue of which the Council are likely to exclude the public during the discussion of the agenda item to which the report relates.

The description of the exempt information under Schedule 12A of the Local Government Act 1972 (as amended) is as follows: -

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

*The author(s) confirm(s) that the public interest in maintaining the exemption outweighs the public interest in disclosing the information*

### **SALE OF LAND IN SUDBURY**

#### **1. PURPOSE OF REPORT**

- 1.1 In October 2020 Cabinet approved the terms for the sale of land at Station Road, Sudbury (as outlined on the plan at appendix 1) to bring forward the development of a new health centre in the town, to enable Hardwicke House and Meadow Lane GP doctors' surgeries to be relocated into state-of-the-art medical centre, in the heart of Sudbury. This centre would provide the facilities to enable primary health and care teams to meet the needs of the Sudbury population for the next 25 years.
- 1.2 The sale of the land is conditional upon detailed planning consent, NHS full business case approval and the doctors entering into an agreement to lease the new building for a period of 25 years from completion.
- 1.3 Detailed planning consent for the development was granted in April 2022 (Ref: DC/21/05017) to the purchasers/developers (Apollo Capital Projects Developments Ltd who have subsequently been acquired by Assura Plc).
- 1.4 The full business case for revenue funding alongside a small element of capital funding has also now been approved by the ICB but is awaiting final signoff by NHS England, this is anticipated in January. However, Hardwicke House Group Practice (HHGP) GP partners are no longer able to commit to a 25-year lease without break options. A lease with break options is not viable for the developer and as such consideration needs to be given whether the Council support this project further or not. The wish for a break clause at 15 years is now a common requirement for GP

partnerships due to their unlimited liability and uncertainty regarding the future of the national General Practice contract.

## **2. OPTIONS CONSIDERED**

### **2.1 Option 1 - Do Nothing**

2.1.1 This will result in the sale and development of the land as a Health Centre not proceeding. The current sub-standard and dated facilities will be retained and used to best effect. This option has previously been discounted by Cabinet as Sudbury has an urgent need for improved medical facilities in the town.

### **2.2 Option 2 - Assura accept a shorter lease commitment from the HHGP**

2.2.1 Assura are committed to delivering this development and have invested significant time and finances into progressing the scheme for in excess of 8 years. [REDACTED]

2.2.2 Reducing the lease term from 25 years to 15 years creates a development with negative viability which Assura is unable to pursue. This is therefore not a viable option.

### **2.3 Option 3 - A headlease is entered into by NHS/ ICB with sub lease to HHGP**

2.3.1 HHGP are prepared to commit to a 15-year lease, however for the development to be viable a longer 25-year lease commitment is required. A third party, with a substantial covenant, could therefore enter into an agreement to take a headlease for a term of 25 years simultaneous to a 15-year sublease being granted to HHGP.

2.3.2 The obvious third party to take a headlease in this situation would be part of the NHS. This has been explored by NHS organisations however primarily for accounting (namely the NHS adopting IFRS16 from 2022) and lack of appropriate policy reasons this cannot be progressed at the current time. The transition from CCGs to ICBs will enable ICBs to hold property assets in the future, which the CCGs were prohibited from doing, however whilst this is now permitted by legislation the policy framework is still to be developed nationally.

### **2.4 Babergh District Council enter into a headlease with sub lease to the HHGP**

2.4.1 Our NHS partners have asked Babergh District Council to consider assisting further in the delivery of this development by taking a headlease of the health centre simultaneous to granting a sub-lease to HHGP as set out in the draft heads of terms attached at appendix 2. This would create a viable scheme that could be delivered for the benefit of the Sudbury area residents.

2.4.2 It is accepted that this would be beyond the normal general remit of a local authority with health services being the responsibility of the NHS. However, the new health centre would have a significant positive impact on the residents of Sudbury and as such due consideration should be given to this possibility.

- 2.4.3 There would be little to no impact on the Council for the duration of the sub-lease, with rent effectively being passed from the SNEE ICB to HHGP and then to the Landlord. The sub-tenant and Landlord would hold the responsibilities for maintaining the property and any outgoings. There are always risks connected with the ability of tenants to pay rent and comply with their lease obligations, this risk is mitigated by the re-imbusement of rent via the NHS GP contracts. Any administrative costs (such as raising invoices, managing payment of rents and property inspections) incurred by the Council as head tenant would be recoverable from the sub-tenant.
- 2.4.4 The main risks for the Council are therefore if the sub-tenants decide to operate their break clause at the 15<sup>th</sup> or 20<sup>th</sup> years resulting in the Council being responsible for paying the head rent but without receiving any sub rent.

2.5

[REDACTED]

- 2.5.1 There are also risks in relation to the change of GP contracts as identified by the current partners of HHGP, the most relevant to the Council as head tenant would be the removal of the rent reimbursement model. Assura has conceded that if rent is no longer reimbursed by the NHS, the head tenant would be able to terminate the lease. We understand this is an extremely unlikely circumstance.

2.5.2

[REDACTED]

## RECOMMENDATIONS

- 3.1 Delegate authority to the Director of Assets and Investments in consultation with the Portfolio Holder for Assets & Investments to agree the detailed terms of the letter of comfort and headlease in accordance with this report.
- 3.2 Delegate authority to the Directors of Assets and Investments and Finance in consultation with the Portfolio Holders for Assets & Investments and Finance to review the final IFRS16 calculation and implement the headlease in accordance with this report.

## REASON FOR DECISION

**To bring forward the development of the new health centre and subsequent capital receipt.**

#### **4. KEY INFORMATION**

4.1 The Hardwicke House Group Practice (HHGP) in Sudbury is one of the largest GP practices in the East of England with a patient population of just under 24,000, this is expected to increase to circa 30,000 with housing growth over the next 10-15 years. The practice operates from five surgery sites, three of which are located within Sudbury and nearby in Cornard. Sudbury is also served by Siam Surgery, located at Sudbury Health Centre with a patient population of circa 11,000. HHGP and Siam Surgeries make up the Sudbury Area Primary Care network.

4.2 HHGP currently has seven GP partners. [REDACTED]

4.3 [REDACTED]

4.4 HHGP has been working with Assura for more than 8 years to identify alternative accommodation. After an extensive site search, land near to Kingfisher Leisure Centre, known as the Lorry Park in Sudbury, was identified and terms agreed initially in 2019 and subsequently in 2020. There were few suitable alternative sites, and this site was by far the most ideal, being in the town centre and close to existing transport links and in a broadly central point between Hardwicke, Meadow Lane and Cornard.

4.5 HHGP currently lease 3 of their current sites (Hardwicke, Meadow Lane and Bures) with unexpired lease terms of 10 years or less. [REDACTED]

[REDACTED] The Cornard site is privately owned so HHGP has no long-term control over its designated use, although no changes are tabled at present. If the new surgery does not proceed, they will continue to run and endeavour to improve their services from the current buildings until lease expiry whilst continuing to look for new accommodation.

4.6 HHGP have a contract with the NHS in perpetuity to provide general practice medial services to their patient list. This contract is revised on a regular basis and sets out how the practice will be paid and the responsibilities and services that sit with the

practice. Under these GP contracts, GP Practices are entitled to receive reimbursement for rent, business rates, water and clinical waste. The level of rent reimbursement is regulated nationally with regard to the nature of the building and services provided.

4.7 [REDACTED]

4.8 Assura are an investment and development company who specialise in health centres. [REDACTED] Assura has secured planning consent and NHS business case approval at their own costs. The contract will fall away if the conditions cannot be satisfied.

4.9 The Council has continued to be supportive of delivering a new health centre in Sudbury, recognising the pressing need to replace the Hardwicke House Group Practice's ageing premises, as outlined to the wider public as part of the 'Sudbury Vision'. The relocation and consolidation of the surgery would create 20 new jobs within Hardwicke House practices that will provide additional capacity to do more in the community. There would also be training facilities within the new building which would help train new GPs, Nurses and clinicians. There is currently a national workforce shortage of GPs/Nurses so new premises would aid GP and Nurse retention as well as helping to attract new staff particularly for longer term succession planning.

4.10 Should this development be able to progress, it is envisaged that works would start on site late Spring 2023 with the building being operational Summer 2024.

## 5. LINKS TO JOINT CORPORATE PLAN

5.1 Supporting the development of a new Health centre in Sudbury is identified as a priority output for the joint corporate plan, supporting the well-being of the residents of Sudbury and surrounding areas as well as benefitting the town centre economy and improving accessibility to the health centre by its location within the town centre with access to public transport.

## 6. FINANCIAL IMPLICATIONS

6.1 The capital receipt from the sale of land at Station Road, Sudbury can be used to repay the Council's debt or to help fund other capital expenditure.

6.2 [REDACTED]

6.3



6.4 The Council does not currently account in accordance with IFRS16 but is required to move to this basis by 1<sup>st</sup> April 2024. IFRS16 requires the whole value or liability of leases to be recorded within the Councils accounts. An initial assessment of the headlease and sublease has been undertaken which indicates an equal value and repayment profile of both the head and sub leases and as such there is no overall impact to the Councils accounts.

6.5 A final assessment would be required prior to any contractual arrangements being made.

## 7. LEGAL IMPLICATIONS

7.1 Councils have the powers to dispose of land and property subject to achieving best value. A market valuation has been obtained to support the sale of the land at the proposed sale price with the associated works to the retained adjacent car park being undertaken by the purchaser.

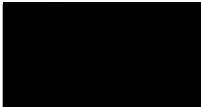
7.2 Councils have the powers to acquire land and property for the purposes of—

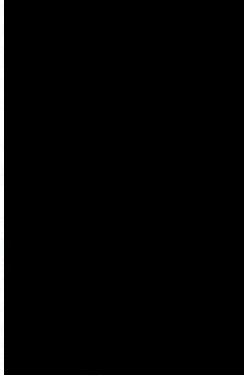
- (a) any of their functions under this or any other enactment, or
- (b) the benefit, improvement or development of their area.

7.3 The delivery of a new health centre to serve Sudbury would be a benefit to the District.

## 8. RISK MANAGEMENT

8.1 Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures	Risk Register and Reference*
Tenant Failure during the term of the sub-lease resulting in responsibilities for rent payment and obligations within the lease.	1 - unlikely	3 - bad	<ul style="list-style-type: none"><li>• Rent reimbursement scheme</li><li>• Landlord responsible for External repairs and structure</li><li>• </li></ul>	<ul style="list-style-type: none"><li>• Significant Risk Register SRR004BDC</li></ul>

<p>Void following break/expiry of sub-lease resulting in responsibilities for rent payment and obligations within the lease.</p>	<p>1 - unlikely</p>	<p>3 - bad</p>	<ul style="list-style-type: none"> <li>• Rent reimbursement scheme</li> <li>• Landlord responsible for External repairs and structure</li> <li>• ICB responsibilities to provide Primary Care Services</li> <li>• Non-Reimbursement Break Provision</li> <li>• </li> <li>• 12 months notice period</li> </ul>	<ul style="list-style-type: none"> <li>• Significant Risk Register SRR004BDC</li> </ul>
<p>ICB don't honour the letter of comfort resulting in responsibilities for rent payment and obligations within the lease if the tenant vacates.</p>	<p>1- unlikely</p>	<p>3- bad</p>	<ul style="list-style-type: none"> <li>• 12 months notice period</li> <li>• Rent reimbursement scheme</li> <li>• ICB statutory duty to commission primary car facilities</li> <li>• Reputational impact on ICB and future partnership approach.</li> <li>• Alternative use of premises to generate income.</li> </ul>	<ul style="list-style-type: none"> <li>• Significant Risk Register SRR005</li> </ul>

\*Name of risk register where risk is currently documented and being actively managed and its reference number

## 9. CONSULTATIONS

9.1 Development of this opportunity has included consultation with:

## **10. EQUALITY ANALYSIS**

- 10.1 The content of this report is such that there are no equality issues arising directly from this report and an Equality Impact Assessment (EIA) is not required.

## **11. ENVIRONMENTAL IMPLICATIONS**

- 11.1 There are no direct environmental implications of the decision to sell land however the subsequent development of such land and occupation of buildings may have environmental implications. The Developer is seeking to achieve BREEAM Excellent and intends to install electric charging points within the health centre car park. Having a head leasehold in this property will not have any further environmental implications.

## **12. APPENDICES**

Title	Location
(a) Appendix 1 - Plan of the area	Attached
(b) [REDACTED]	[REDACTED]
(c) [REDACTED]	[REDACTED]
(d)	