

Bath & North East Somerset Council

DECISION MAKER:	Cllr Paul Roper, Cabinet Member for Economic & Cultural Sustainability	
DECISION DATE:	On or after 24 February 2024	EXECUTIVE FORWARD PLAN REFERENCE:
		E 3509
TITLE:	BEAUMONDS CHILDRENS HOME, PADLEIGH HILL, BATH BA2 9DW	
WARD:	ODD DOWN	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Please list all the appendices here, clearly indicating any which are exempt and the reasons for exemption: - Appendix 1 – Location Plan Appendix 2 – Heads of Terms for Beaumonds Appendix 3 – Equalities Impact Assessment		

1 THE ISSUE

- 1.1 It is proposed where we are commissioning services and granting a lease for the operation of that service that the rental charge is waived as, to do otherwise, would simply increase the cost of the service by whatever rental is charged. Since the rent being charged at a nil or a peppercorn will signify a disposal at undervalue a Single Member Decision is required to ratify the grant of such leases.
- 1.2 The property currently being considered is Beaumonds Childrens Home and the intention is to utilise this in-principle decision to enable other properties in similar commissioning situations to be so leased.

2 RECOMMENDATION

The Cabinet Member is asked to:

2.1 Proposal 1

Ratify the granting of leases at a nil/nominal rental where a commissioned service is being paid for by the Council and the cost of that service exceeds the rental value of the property being leased.

3 THE REPORT

- 3.1 Beaumonts comprises a detached bungalow situated in a parade of detached houses in a quiet residential area of Rush Hill, two miles south-west of the centre of Bath (see Appendix 1).
- 3.2 The property was acquired from the NHS in 2017. The property had been used to provide community care facilities and secure a better quality of care for people with learning disabilities. The clients using the facilities were mainly people who had either been discharged from long stay NHS Institutions or would have been admitted to these institutions if the community care facilities were not available.
- 3.3 Since the acquisition of this property Children's Service Health and Commissioning have let it to Action for Children. Initially a Tenancy at Will was granted to them but subsequently a five-year lease was granted commencing on 1st April 2019 and ending on 31st March 2024.
- 3.4 The current lease provides for a rental of £24,000 per annum but with a Rent Abatement Clause which is effective while the services are being undertaken to the satisfaction of the landlord.
- 3.5 The repairing obligations required the tenant to keep the property in good condition. However, it is understood that this obligation has become diluted due to the Council undertaking works and repair liabilities.
- 3.6 It is now proposed that the following procedure be adopted: -
- i. Current leases granted to providers commissioned to deliver Children, Young People and Family services will be terminated [generally at the end of the financial year 24/25] in preparation for the grant of new leases to new providers commissioned via a tendered contract to begin at the start of the next financial year.
 - ii. The grant of the new leases will be in a prescribed format which the provider organisations will be able to view as part of the tender package see draft Heads of Terms attached (Appendix 2).
 - iii. The new leases will indicate the appropriate market rental value for a property which would be charged if the service ceased and/or contract terminated.
 - iv. Each lease will require the new tenant and provider to pay a "lease charge" which will be a fixed sum subject to RPI increases at annual intervals. The advertised fixed sum will be based on the annual equivalent of the historic costs of repairing each building for the last few [3-5] years, sensitivity tested by a surveyor.
 - v. Whilst the lease will state the market rent, each new provider will not be charged this rent whilst they continue to provide the tendered service under the contract. Instead, and as the abated rent [peppercorn rent/nominal £1.00] is less than the market value indicated there is a need for an in principle single member decision to enable the leases to be granted at less than an estimated rental value (ERV) equivalent to market value. The rationale for this is that any cost incurred in terms of any rent charged will be reflected in the bid from providers.

Note - The current model of commissioned service does not require a rent to be paid once the service ends. There is a need for consistency and the implementation of a fixed lease charge to cover estimated annual landlord outgoing will enable providers to bid in the full knowledge of the outgoings for which they will need to make provision in their bid. The Council will bear any excess over the lease charge but if the service ends any continued occupation will be at market rent and effectively full repairing with some limitation subject to the Council as landlord bearing any excess over the lease charge.

- 3.7 The ability of the Council to attract tenders/bids is sometimes critical to a fair competition as some tenderers will decline to participate if it involves the requirement to procure separately the accommodation necessary in order to provide the service to the Council.
- 3.8 The charging of a market rent where a commissioned service is no longer provided from the premises will ensure any terminated service provider will either pay the market rent specified in the lease for continuing to occupy the premises, or to vacate the premises. The rent paid would then be used to fund council services or if vacated the premises can be used to house a new provider or for alternative services or even disposed of.

4 STATUTORY CONSIDERATIONS

- 4.1 Public health and inequalities: the Council has a statutory duty to promote the health and wellbeing of the inhabitants of its area and reduce inequalities amongst its population.
- 4.2 Property considerations: under s123 of the local government act 1972, any disposal by the council of an asset in excess of seven years (including leasehold interests) must obtain "best consideration", unless circular 06/03 applies. The Local Government: General Disposal Consent (England) 2003 permits the disposal of land for less than the best consideration that can reasonably be obtained where applied, or a specific consent is obtained. The general consent allows specified circumstances where the consent can be applied:
- A. the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objectives in respect of the whole or any part of its area, or of all or any persons resident or present in its area;
 - I. the promotion or improvement of economic well-being.
 - II. the promotion or improvement of social well-being.
 - III. the promotion or improvement of environmental well-being.
 - B. the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).
- 4.3 The Royal Institution of Chartered Surveyors have set out guidance specifically to deal with the disposal at less than market value which should be followed unless there are particular circumstances that mean that it is not appropriate. It puts in place an audit trail so that the decision is demonstrably

robust. it is, therefore, considered that this is an appropriate model for sign off of the individual transactions which should be undertaken in liaison with the section 151 officer. the assessment requires:

- a full valuation exercise is undertaken which identifies the maximum theoretical Market Value for the asset to be transferred.
- calculation of the reduced values that apply because of any restrictions that the Council applies relating to things such as use, alienation, clawback, etc.
- the value added to the Council through the outcomes of the transfer has been assessed and found to be not less than the difference between market value and the actual price to be paid.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

5.1 As the objective of this exercise is to simplify the process additional resources will not be required.

6 RISK MANAGEMENT

6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision-making risk management guidance.

7 EQUALITIES

7.1 An Equality Impact Assessment Dated 25.10.23 has been prepared by The Strategic Commissioning Officer and is attached (Appendix 3).

8 CLIMATE CHANGE

8.1 With the provision of these services within the catchment area travel times should be reduced contributing to lower carbon emissions.

8.2 The EPC rating is E [104] and expires on 12.04.2033.

9 OTHER OPTIONS CONSIDERED

9.1 None

10 CONSULTATION

10.1 Finance have been consulted and their response is: -

10.2 The repair and service costs charged to the tenant/provider are expected to result in an increased tender charge/amount to the Council for the commissioned service. Separately therefore, the rental will be recorded at a market rent in the lease but the tenant/service provider will be charged at a nominal rate [a peppercorn] while the services are being undertaken to the satisfaction of the Council.

10.3 The proposed service charge will be based on the historic costs of repairing the building. As the service charge is for repairs to the building, the monies

received should be managed to fund the costs of repair and maintenance of the building.

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Background papers	None
Please contact the report author if you need to access this report in an alternative format	