

## **Appendix 5 - Terms of Reference**

### **Call-in of the Cabinet decision: E3181**

#### **Introduction**

A single member Cabinet Decisions was made on the 13th December 2019 resolved as set out below:

2.1 The Cabinet Member agrees to authorise approval to surrender the tenant's lease dated 2nd February 1993 between Bath City Council and the tenant for a term expiring 1 February 2058.

Subject to the following conditions:

- Vacant possession
- The tenant using best endeavours to provide vacant possession at the earliest opportunity.
- Payment of a reverse premium by BANES to the tenant on completion of the surrender

2.2 The rationale for the decision was that the property was converted into 20 flats in the 1970s, the majority of which are bedsits, with poor layouts. They are primarily occupied by single residents. They are now considered unsuitable for this purpose and the tenant has had a long term strategy to re-house their residents.

Housing Services are assisting the relocation of the existing tenants, including by giving them high priority status on the Homeseach Scheme. The Council's single point of access for affordable housing within the district.

The agreed surrender enables the tenant to progress their long term strategy and the Council to gain vacant possession of a valuable asset.

On completion of the surrender the Council will be in position to undertake a full property appraisal and decide on strategy going forward.

On the 20th December 2019 a call-in notice was received, signed by 9 Councillors, objecting to this decision.

This decision relates to the decision of 23 Grosvenor Place, London Road, Bath BA1 6BA:– Surrender of existing Guinness Housing Association (GHA) lease, subject to payment of a reverse premium. Taken by Cabinet Member Cllr Richard Samuel (Cabinet member for Resources), for the following reasons:

1. There has been no opportunity for Elected Members to scrutinise the proposals.
2. The report was inadequate, lacked information and did not demonstrate how we came to this recommendation.

3. We believe that it is not justifiable to pay £450k for a building that will be handed back to us in extremely poor condition and will require further investment to bring back for a suitable use.
4. The impact of this decision has not been considered fully within the Council and binds the Council to future spending.
5. There is a lack of transparency of information surrounding this proposal. Nowhere within the Council's report did it address the following areas:
  - a. The tenant approached the Council 2 years ago about their desire to surrender this lease.
  - b. We do not believe it right to allow the tenant to walk away from a full repairing lease without any obligations to contribute financially.
  - c. There has been no discussion or consideration, within the Councils scrutiny panels about the implications of losing 20 dwellings from our vulnerable people's provision. We already have a housing shortage, and this decision has increased it by another 20 housing units.
6. No reasons have been given as to how or why the decision was reached to accept the surrendering of the building lease.
7. We believe that it is not justifiable to pay £450k of tax payers money as a "pay off" to the tenant without even a business plan being in place. It was stated that B&NES had sought professional advice back in 2018 and the upshot is the £450k cost. Councillors should have had a chance to see that professional reasoning, withholding it means scrutiny cannot be achieved properly and makes the whole figure/process very confusing.
8. Without careful consideration and scrutiny we will be setting a precedent for future tenants to be able to just walk away.
9. There is no detail as to what the future strategy is for the building and what exactly the administration intends to do with it.
10. Ultimately, we do not believe that the Council is getting best value for money from these arrangements.

### **Relevant PDS Panel**

The 'call-in' request has been referred to Bath & North East Somerset Council's Corporate Panel to review the decision.

### **Call-in Meeting**

At the Panel meeting on the 13<sup>th</sup> January 2020 the Panel will investigate and determine the matter. They will assess in detail the reasons for the Cabinet decision and consider the objections stated in the call-in notice via a range of information from Councillors, Officers and members of the public (further details below).

## Objective

The objective of the Call-in review is to determine whether or not the resolution made by the Cabinet Members should:-

- Be referred back to the Cabinet for reconsideration [**‘Uphold’ the call-in**]
- Proceed as agreed by the Cabinet [**‘Dismiss’ the call-in**], or
- Be referred to Full Council to undertake the role of the Panel [*the ultimate decision would still remain with the Cabinet*].

## Method

To achieve its objective, the Panel will investigate the original decision and the objections stated in the call-in notice. The Panel will hear statements from members of the public who have registered to speak about both the substance and processes behind the decision. Public statements will be limited to 3 minutes per speaker or any variation proposed by the Chair. It will also require attendance and/or written submissions from:-

- Representative Councillor(s): Cllr Colin Blackburn
- Lead Cabinet Member – Cllr Richard Samuel (Cabinet Member for Resources) and key service officers

## Outputs

The Panel’s view and supporting findings will be made publicly and will include:

- Minutes & papers from public Panel call-in meetings.
- A summary note will be provided, setting out the result of the call-in meeting

## Constraints

**The Panel will only address questions from the validated point within the call-in notice.**

- **Timescales.** The Panel must hold its initial meeting within 14 working days of the call-in being verified to consider the call-in request. The Panel has a total of 21 working days to reach its decision.
  - Initial Public Meeting must be held by 14<sup>th</sup> January 2020 [14 working days from receipt of validated call-in request]
  - If meeting adjourned, second public meeting must be held by the 23<sup>rd</sup> January 2020 [21 working days from receipt of validated call-in request]
  - If referred directly to the Cabinet, a response must be received by the 27<sup>th</sup> January 2020 [10 working days from date of 1<sup>st</sup> meeting]
  - If adjourned and then referred to the Cabinet, a response must be received within 10 working days from date of 2<sup>nd</sup> meeting.
- **Resources.** The call-in process must be managed within the budget and resources available to the Panel.
- **Council Constitution.** Part 4E, Rule 13 requires that “*Where an Overview and Scrutiny Panel makes a recommendation that would involve the Council incurring*

*additional expenditure (or reducing income) the Panel has a responsibility to consider and / or advise on how the Council should fund that item from within its existing resources".* Section 3.1 of the cover report (formal agenda papers) provides further explanation.