

Bath & North East Somerset Council

DECISION MAKER:	Councillor Tom Davies, Cabinet Member for Adult Services and Council House Building Councillor Richard Samuel, Deputy Council Leader and Cabinet Member for Resources	
MEETING/ DECISION DATE:	On or after 1 st October 2022	EXECUTIVE FORWARD PLAN REFERENCE: E3390
TITLE:	Fairfield House, 2 Kelston Road, Bath BA1 3QJ & 27 Burleigh Gardens, Bath, BA1 3RR – new lease	
WARD:	Newbridge	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Appendix 1 - Heads of Terms [16.06.2022] Appendix 2 - Tenants Accounts to 31.03.2021		

1 THE ISSUE

- 1.1 This report relates to Fairfield House and 27 Burleigh Gardens at Newbridge.
- 1.2 The tenant has occupied Fairfield House for several years. The purpose of this decision is to regularise the current occupancy arrangements.
- 1.3 The Tenant intends to apply for a Community Asset Transfer [CAT] for the property and land.
- 1.4 The granting of a short-term lease will allow some time for the Tenant to prepare a robust business plan and secure finance [grants]. Any future CAT submission would be considered in the context of relevant Council policy and in accordance with democratic processes.
- 1.5 The occupier and proposed tenant is a Community Interest Company, Fairfield House Bath CIC.

2 RECOMMENDATION

The Cabinet Member is asked to delegate to the Director of Regeneration and

Housing authority for:

- 2.1 The granting of a new lease for a two-year term, which will be outside of the security of tenure provisions set out in the Landlord and Tenant Act, 1954 at an annual rent of £1,200 per annum. This will regularise the current position.
- 2.2 The lease will be predominantly on the basis of the Landlord being responsible for repairing and insuring the property. The Landlord will be carrying out some limited works at the start of the lease. Other terms are as set out in the Heads of Terms attached in Appendix 1.
- 2.3 During the two-year lease period the tenant intends to develop plans to apply for a Community Asset Transfer (CAT) or a new longer lease [25 years]. The Tenant will during the lease period arrange and develop stand-alone funding, business and any partnership plans in consultation with the corporate estate and service department

3 THE REPORT

- 3.1 The property known as 'Fairfield House', is an 'Italianate' type villa built circa 1850. The property is listed grade II and known as having been a former residence of His Imperial Majesty Haile Selassie in the late 1930's to early 1940's who gifted the property to Bath Corporation for use as a home for the aged in 1959. The Property is laid out over ground and first floor with basement providing some 600 sqm of usable area.
- 3.2 The other part of the property, 27 Burleigh Gardens, comprises a residential detached bungalow built in the 1970's. It provides accommodation of three bedrooms, living, kitchen and bathroom with a garden and detached garage. It seems this building was constructed to provide caretaker accommodation.
- 3.3 The properties are not in good repair and the Council intends to carry out some works to the property to secure its integrity [effectively to make it 'wind & watertight']. These works will be prioritised in accordance with the condition survey undertaken at 27.01.2021. The provisionally estimated cost of works is £162,500 [excluding VAT]. The works are currently being tendered and fall within approved Council budgets.
- 3.4 The property has been used since acquisition by the Council for a variety of uses, that include care home and community uses/offices.
- 3.5 The property has been considered for disposal by way of sale in the past for purposes of capital receipt and revenue/efficiency savings. In the event a CAT does not ultimately take place a discussion will be held with relevant communities on the next steps.
- 3.6 This two-year lease will regularise current arrangements and provide the Council with a small income to cover some of the running costs.

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 The Royal Institution of Chartered Surveyors (RICS) is the governing body for Chartered Surveyors and they 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.

4.3 Property considerations: under s123 of the Local Government Act 1972, any disposal by the Council of an asset in excess of 7 years (including leasehold interests) must obtain “best consideration”, unless Circular 06/03 The Local Government: General Disposal Consent (England) 2003 disposal of land for less than the best consideration that can reasonably be obtained apply 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 objects 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).

4.4 Whilst this report is being prepared to permit a short-term lease (two-year term) to be granted [outside the parameters of s.123], it is a precursor to a decision for a possible longer term leasehold disposal under the Community Asset Transfer policy. To facilitate the short-term arrangement, works are necessarily being planned and expenditure is required to be made by the Council [3.3 above].

4.5 There is also on-going monetary commitments in terms of other associated occupational costs such as utilities and rates (responsibilities are set out in the terms Appendix 1) due to the occupation of the proposed tenant.

4.6 There are no current delegations or resolutions to allow these transfers to take place at less than best consideration; best consideration being based on

market values. This report, therefore, seeks to give such authorisation to the Director of Regeneration and Housing [in consultation with the Chief Operating Officer, Monitoring Officer and S151 Officer].

4.7 The lease will enable a local facility to be retained for the community in the short term [2 years]. With any available grant funding and resources, the proposed Tenant will be able to further promote and invest in the building to improve its services to the [BAME] community.

4.8 This disposal is not considered to constitute state aid.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

5.1 There is not considered to be any material implications or changes on resources as the status quo is being maintained.

5.2 The Council is currently responsible for property costs and will remain so for the course of the lease granted, for the next two years.

5.3 The Tenant will be paying a nominal rental of £1,200 pa during the lease term. The Council would, if the property were in repair, be foregoing an estimated rental income of £50,000 pa in respect of Fairfield House and £17,000 pa in respect of 27 Burleigh Gardens.

5.4 Offering a lease regularises the current occupation and provides the CIC with the opportunity to develop their plans under a short-term lease.

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 CLIMATE CHANGE

7.1 The lease will enable a local facility to be retained for the community in the short term [2 years]. With any available grant funding and resources, the proposed Tenant will be able to further promote and invest in the building to improve its energy efficiency.

7.2 The building has an EPC certificate rating of E [108] which expires on 08.12.2029 which is compliant.

8 OTHER OPTIONS CONSIDERED

8.1 Other options are currently limited due to the occupation/proposal and condition of the property. A primary option would be an outright sale of the property on the open market. However, this property is a valued local community facility, and it is therefore considered that a CAT is the preferred option. This is subject to a robust business case being submitted which is compatible with council policy, financial and legal frameworks.

8.2 The grant of the new lease enables the community to retain a facility and community centre resource for the short term with a view, dependent on the

Tenant working up to and planning a sustainable operation, to transfer to a longer-term lease opportunity by way of Community Asset Transfer.

9 CONSULTATION

9.1 Consultation has been carried out with the Chief Operating Officer, S151 and Monitoring Officer, as well as the Deputy Leader and Cabinet Member for Economic Development & Resources and the Ward Councillors for Newbridge.

Contact person	Simon Martin, Director for Regeneration and Housing
Background papers	<ol style="list-style-type: none">1. RICS Guidance Disposal of Land at less than best Consideration. https://democracy.bathnes.gov.uk/documents/s34180/Appx%201%20RICS%20Local%20Authority%20Asset%20Management%20Best%20Practice%2007%20Disposal%20of%20Land%20at%20less%20than%20Bes.pdf2. Community Asset Transfer Policy https://www.bathnes.gov.uk/sites/default/files/final_cat_policy_march_2020 - updated with new corporate strategy 2020-24_2.pdf
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