

Bath & North East Somerset Council

MEETING/ DECISION MAKER:	Councillor Kevin Guy – Leader of the Council Councillor Alison Born - Cabinet Member for Adult Services	
MEETING/ DECISION DATE:	On or after 21 June 2025	EXECUTIVE FORWARD PLAN REFERENCE: E3619
TITLE:	Percy Community Centre, New King Street, BATH BA1 2BN [Grant of a new lease at below market rent/value]	
WARD:	KINGSMEAD	
AN OPEN PUBLIC ITEM		
List of attachments to this report: <ul style="list-style-type: none">• Appendix - 1 - Heads of Terms - lease [subject to contract]• Appendix – 2 – Location/lease Plan• Appendix – 3 – Percy Community Centre - Charity Information overview• Appendix – 4 – Percy Community Centre - Company Accounts		

1 THE ISSUE

1.1 This report relates to Percy Community Centre, New King Street, Bath.

1.2 To consider the grant of a lease to the Percy Centre Limited [CN: 06769345 & – Ch.N: 1127986] for a term to expire on 23.06.2028 [ca three years] at less than best consideration [below market rent].

1.3 The tenant currently occupies under a business tenancy/lease under the security of tenure provisions of the Landlord & Tenant Act 1954 where the Council as landlord is entitled to a rent based on market terms and where the tenant is able to continue occupation under a lease, generally on the other terms, other than rent, being essentially the same as the current lease unless a change is considered to be reasonable and/or justified by a court. The Council as the landlord would ordinarily be obliged to require a market rent from a tenant on the granting of a lease [disposal] under the 1954 Act.

1.4 The current occupier and proposed tenant is a charity, Percy Community Centre.

2 RECOMMENDATION

The Cabinet Member is asked to consider, decide and to delegate to the Head of Corporate Estates & Development authority.

- 2.1 To formally record the effluxion and rescinding of the decision made in 2014 [Decision E2625] which was at the time to grant a new 99-year lease.
- 2.2 To grant a new lease to 23.06.2028 on the current concessionary terms and within the provisions of the Landlord & Tenant Act 1954 [security of tenure].
- 2.3 To delegate to the Head of Corporate Estates & Development the power to transfer the property on the concessionary terms as set out in para 3.17.

3 THE REPORT

Background

- 3.1 The Council [Bath & North East Somerset Council] took over the Percy Centre under the transfer arrangements from the former Avon County Council.
- 3.2 The original lease is dated 20.03.1996 and is for a term of three years from 01.10.1995. The lease was granted to two individuals as trustees of the Percy Community Association. The lease is drafted on unfavourable terms to the Council as landlord, however, there was a rent reserved of £17,500 pax, which presumably covered the Council's expenditure and obligations at the time. The obligations include the landlord repairing and maintaining of most parts of the building as set out in a maintenance schedule with limited corresponding obligations on the tenant.
- 3.3 At some point the lease was taken over or vested in the Percy Community Centre Ltd which was incorporated in 2008. The rent was also abated to a nominal amount of £200 pa at some point rather than the £17,500 pa reserved under the lease. The Council therefore owns a building with virtually no income from rental but with ongoing obligations and liabilities such as repairs.
- 3.4 As the lease is, for the purposes of the Landlord & Tenant Act 1954, a protected tenancy it was able to be brought to an end by way of a section 25 notice. The tenancy was brought to an end following service of a section 25 notice specifying an end date on 24.12.2020. The terms proposed for a new lease were for a term of three years at a rent of £43,400 pa and other terms generally the same as the existing lease with some modernisation.
- 3.5 The contractual lease had expired on 30.09.1998 and the then tenant or Percy Community Centre Ltd has been occupying under a continuation tenancy as permitted under the 1954 Act since then [ca 26 years]. This was not a satisfactory situation for the Council.
- 3.6 Normally under the 1954 Act the tenant is required to bring an application to Court before 24.12.2020 [the expiry of the notice] for a new lease. The Act/court procedures permit any application to be delayed or extended in time by agreement. This has been done on successive occasions and the latest runs to 31.07.2025. The tenant has therefore been occupying for nearly five years under the extended time for application. Again, this is not a satisfactory situation for the Council.

3.7 A Community Asset Transfer (CAT) was considered/decided at 03.03.2014 within an omnibus proposal and cabinet approved [E2625] the granting of a new lease on the following basis;

a) The Chief Property Officer is authorised to enter in to long-leases of the properties set out within the body of the report at Schedule

- The Leases to be granted subject to:*
- The organisation accepting full repairing and insuring terms*

b) Use being restricted to community purposes and uses ancillary thereto, with the Council having an option for the return of the asset at nil consideration should this use not continue.

c) Prior to the leases being entered in to, Council officers to be satisfied that the individual occupiers have in place a constitution that is robust and sufficient.

d) The lease to reserve a market rent. However, the lease will abate the rent to zero on the condition that, every year there is an annual progress report setting out the community benefits achieved, and every five years, the group provides a copy of its constitution, articles of association and other supporting documentation to satisfy the Council that it continues to operate the property for appropriate purposes.

3.8 Percy Centre was included in the schedule attached to the cabinet submission.

3.9 Notwithstanding the approval of the CAT and the submission of a draft lease on the cabinet approved terms to the Tenant in October 2015, no new lease was taken up or granted. As noted above the existing lease/tenancy continued as before until brought to an end in December 2020. The then approved CAT was considered abandoned, and the tenant was informed in 2019 that a new application would be required under the new CAT policy.

3.10 Following discussions with the tenant prior to the service of the section 25 notice heads of terms were submitted to the tenant in an attempt to negotiate a new lease without resorting to the statutory process. These were not accepted or progressed. The terms were generally on the same basis as the existing lease but with a market rent so that there would be no subsidy.

3.11 A section 25 notice was accordingly served bringing the tenancy to an end. Subsequently as the tenant raised the matter of a new CAT where the old one had not materialised, terms for a new short-term lease have been prepared on a similar basis as existing [generally landlords repairs etc and a rent of £200 pa] to enable the tenant to make and progress an application.

3.12 During the term of this proposed lease period the tenant is expected to develop plans to apply for a full Community Asset Transfer (CAT) for a new 25-year lease. The Tenant will during the new short lease period be expected to arrange and develop stand-alone funding, business and any partnership plans in consultation with the Council to be able to take on a CAT. This will ensure clarity and provide a basis and timetable for the CAT process.

- 3.13 Alternatively, the Tenant is expected to provide a proper and acceptable business case for a concessionary and advantageous lease and for current circumstances to continue beyond 2028 [end of proposed new lease] rather than on a market rent basis.
- 3.14 The proposed lease would mean the Council continuing to maintain the premises in accordance with the latterly expired/terminated lease/tenancy at a rent of £200 pa and corresponding monetary commitments established under the obligations of the expired lease which dates back to 1995. Although the Council will collect the rent of £200 pa, the rent will continue to be stated as £17,500 pa as stated in the existing lease and abated to £200 pa.
- 3.15 It is noted the Tenant was not able to take up the previous CAT, which has been discontinued, and it was necessary to terminate the existing lease/tenancy in accordance with the statutory procedures within the 1954 Act. The Tenant is expected to take up this new opportunity to be able to enter into a CAT transfer following the proposed lease or provide a proper and acceptable business case for a new concessionary lease to be granted after 28.09.2028. The Council as the asset owner is expected to commercially manage its assets and to look into alternatives where this opportunity is not taken up or not expected to be concluded.
- 3.16 The property has a current ratable value of £27,000 [2023]. The property has an EPC rating of "D" which expires on 07.06.2033. The property therefore falls outside the targeted sustainability credentials of a property EPC rating of "A-C" required or targeted by institutional investors and quoted property companies and likely to be required under current government proposals for EPC values which are slated to come into effect from 2027 if enacted.
- 3.17 The Cabinet/Single Member is therefore to determine the following;
- i. to grant a new lease on the subsidised terms proposed viz the Council continuing to maintain the premises in accordance with the expired lease at a rent of £200 pa [abated from £17,500 pa], on the following basis;
 - a) To assist/encourage the tenant to progress a CAT application and engage with the Council to establish the proposals for a viable CAT.
 - b) To assist/encourage the tenant to provide a proper and reasonable business case for a continuation of a concessionary lease with a subsidy from the Council taxpayer.
 - ii. In the event the Tenant does not engage or take up a new lease on the attached terms then the Council is probably obliged to allow the matter to progress to Court for a new lease. The Court will determine the terms of the new lease and the rent to be paid, and the Council will be obliged to exercise and enforce the resulting court order.
- 3.18 Of further consideration is that the property is a council corporate property asset and should form or support the Council's policies and objectives such as;
- i. The current financial climate is difficult and is impacting on council resources, whether revenue or capital. Accordingly, where the premises

are not being taken up for a CAT or no business case is made for a rent at less than market value the council may be required to look at services, revenue or capital requirements, albeit observing any statutory obligations. For example, this may require a transfer to the commercial estate for increasing revenue and creation of an investment. Alternatively, there may arise a capital requirement within the council or other pressing policy objective such as affordable housing or commissioned services. Any of these requirements may only be facilitated by a transfer, disposal or redevelopment of the site to generate funds or resource for compliance with such a requirement. In addition, in view of central government initiatives on matters such as housing, sites held by councils would be regarded as a priority for such initiatives over or in parallel with private sector initiatives and sites.

- ii. The existence of a CAT policy permits transfer of an asset value where there is a social value. This can be progressed by the Tenant through the CAT process and working with the Council to deliver the social values/benefits.

3.19 An independent valuation has not been obtained; however, one is expected to be obtained when the CAT transfer application is active, and a valuation is expected to be obtained and will form part of the considerations in the CAT process which the Tenant is expected to take up.

4 STATUTORY CONSIDERATIONS

4.1 In general terms, under the Landlord & Tenant Act 1954, a business tenant enjoys certain statutory protections and is entitled to renew a lease on generally the same terms, other than rent which is to be based on market terms. Procedures are laid down within the Act which the landlord and tenant are obliged to follow. A landlord is entitled to recover possession under seven grounds. In the absence of agreement matters are determined by the Courts on an application by the tenant. The current occupation is a business tenancy and therefore falls within the Act.

4.2 Subsidy Control Act 2022 – An Act to make provision regulating the giving of subsidies out of public resources; and for connected purposes. The granting of a lease by the Council at below market rent [the forgoing of revenue that is otherwise due] would be financial assistance given, directly or indirectly, from public resources by a public authority.

4.3 The guidance states – As with previous legislation, small amounts of funding can be awarded that do not require compliance with the Subsidy Control Act 2022. Under section 36 of the Act, minimal financial assistance can be awarded up to a value of £315,000 over the last three years. Projects that exceed £315, 000 cannot be awarded under the MFA route. Awards under this process will need to demonstrate that recipients have not received state funding under MFA over a rolling three-year fiscal period. Under section 38 – Services of Public Economic Interest [SPEI] awards can be issued to enterprises that qualify up to £725,000 over the 3-year rolling period. SPEI services are essential services to the public which, without subsidy support, would not be supplied in an appropriate manner, or at all e.g. social housing.

- 4.4 The anticipated ca three-year lease is not currently seen as exceeding the threshold and section 36 [and/or section 38] can be relied upon.
- 4.5 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.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 5.1 The recommendation outlined in paragraph 2.2, to grant a new lease to 23.06.2028 on the current concessionary terms, will mean that most property maintenance costs remain with the Council and will not be covered by the nominal rent received. This is the status quo and therefore there is no additional burden on the Council as a result of this recommendation. Completion of the CAT or a move to market rent [by agreement or court order] would result in a favourable change financially to the Council as the property maintenance costs would no longer be a responsibility for the Council under a CAT or would be defrayed by receipt of a market rent should the lease be renewed under the 1954 Act at a market-based rent.
- 5.2 In the absence of an application to court and the return of possession, a proposal would be the property would become available for commissioned services or alternatively as a site for redevelopment or for sale and contribution to Council capital requirements.

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 has been prepared by the Strategic Commissioning Officer.

8 CLIMATE CHANGE

- 8.1 As noted above the EPC rating is D and expires on 07.06.2033. Ordinarily in accordance with best practice asset management the Council should attempt to uprate this to be with the A-C range for longer term property sustainability credentials. The current government proposals are for EPC's to be a minimum of C from 2027 which if enacted will need to be complied with whether immediately or phased.

9 OTHER OPTIONS CONSIDERED

- 9.1 Apart from the option above for cabinet to decide upon no other options have been considered. This is due to the Tenant's lease sitting within the security of tenure provisions of the Landlord & Tenant Act 1954 which limits the options available to the Council.
- 9.2 A disposal of the freehold interest could be considered however, with a tenant in occupation and the type of occupational lease this may not be viewed as an

attractive or beneficial option for the council when the premises could be further used for the provision and promotion of council services or objectives.

9.3 The CAT application avenue can be progressed and explored further during the term of the proposed lease. The tenant will need to develop a plan or business case for assuming responsibilities for the property.

9.4 In the event of the tenant not being able to develop the CAT within the term of the lease and to subsequently take it up the Council will need to address the occupation at a nominal rent with the attendant lease obligations as a burden on the council's budget. The council will need to explore its options or those available to it at or before the end of the lease.

10 CONSULTATION

10.1 Leader of the Council; Section 151; Finance Officer; Monitoring Officer.

10.2 The report has been provided to the above parties and their responses if any have been incorporated into the body of the report.

10.3 The Council's monitoring Officer (Council Solicitor) and Section 151 officer have had the opportunity to input to this report.

Contact person	Richard Holden – Head of Corporate Estate
Background papers	<p>1. RICS Guidance - Disposal of Land at less than best Consideration.</p> <p>https://democracy.bathnes.gov.uk/documents/s34180/Appx%201%20RICS%20Local%20Authority%20Asset%20Management%20Best%20Practice%2007%20Disposal%20of%20Land%20at%20less%20than%20Bes.pdf</p> <p>2. Community Asset Transfer Policy</p> <p>https://www.bathnes.gov.uk/sites/default/files/2025-07/CAT_policy_March_2020.pdf</p>
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