

Bath & North East Somerset Council		
MEETING/ DECISION MAKER:	Cllr Paul Roper - Cabinet Member for Economic and Cultural Sustainable Development	
MEETING/ DECISION DATE:	On or after 26 th August 2025	EXECUTIVE FORWARD PLAN REFERENCE:
		E 3638
TITLE:	Abbot Alphege Academy Beckford Drive Lansdown Bath New leases for commissioned services at less than best consideration.	
WARD:	Lansdown	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Appendix 1 - Draft Service Charge, including an element for Utilities.		

1 THE ISSUE

- 1.1 The report relates to the proposal to relocate St Matthias Academy currently based at Rush Hill Culverhay to the ground floor of Abbot Alphege School buildings and to continue to deliver Hospital Education Reintegration Services (HERS) on the first floor Abbot Alphege. This move is necessary to vacate the Culverhay site at Rush Hill, which is designated for the development of two new Free Schools.
- 1.2 The Funding Agreement between the Department for Education and The Partnership Trust for Abbot Alphege School is scheduled to end on the 13th October after which it will return to Local Authority control. As the site is designated for educational use, it is proposed that both the Secondary AP and HERS service operate there to continue to meet statutory obligations.
- 1.3 Finding alternative short-term accommodation suitable for school use and at reasonable costs has proved challenging and so it was with some fortune that the Abbot Alphege Primary School site has become available. Abbot Alphege Primary School formerly merged with Weston All Saints Primary School from September 2024 and ceased to operate as a primary school at the Abbot Alphege School site. The Partnership Trust Funding Agreement for Abbot Alphege will cease from 13th October 2025, and the school site will revert to the LA. HERS services, run by The Partnership Trust will continue to occupy the first floor of Abbot Alphege school buildings.

- 1.4 Under Section 19 of the Education Act 1996, Local Authorities have a statutory duty to arrange suitable education for children of compulsory school age who are unable to attend mainstream school due to exclusion, illness or other reason. B&NES fulfils this duty by commissioning statutory Alternative Provision (AP) services.
- 1.5 Commissioned Provision in relation to this undertaking are (a) Secondary AP delivered by St Matthias Academy (part of the Midsomer Norton Schools Partnership Trust) from the Culverhay site, and (b) The Hospital Education Reintegration Service (HERS) delivered by The Mendip School (part of The Partnership Trust) and currently operates from the first floor of Abbot Alphege School.
- 1.6 The former Rush Hill School site which includes Culverhay Leisure Centre, The Humanities block, an ex-nursery and other buildings are to be demolished under a DoE scheme to create two new purpose-built AP schools within the next three years. The removal of all current occupiers is therefore essential for the scheme to go-ahead. Demolition is planned to commence in November 2025.
- 1.7 MNSP will be one of the beneficiaries of the completed development but in the interim remain obliged to continue to operate as a school and provide the services commissioned by B&NES.
- 1.8 Abbot Alphege will therefore become an ideal short-term solution to potentially expensive and less appropriate alternative premises which would have required substantial remodelling and conversion costs to meet the same standards.
- 1.9 The move to Abbot Alphege will follow some separation remodelling of the school premises to accommodate MNSP on the ground floor and The Partnership Trust on the first floor. The fact that the premises is already a school (with grounds) will speed up the process and prevent further delays and uncertainties to the Culverhay site redevelopment programme.
- 1.10 However, the move to Abbot Alphege presents MNSP with significant cost challenges given the potential relative differences in lease costs between the two premises. Abbot Alphege is a considerably more expensive property than Culverhay and reportedly MNSP will not benefit from increased revenue to cover the proposed move. In addition, TPT's costs to date have building maintenance and utility costs only as their current occupational lease (academy lease) rent is one peppercorn.
- 1.11 Rent and service charge costs combined along with the recent option to tax for VAT will render the building unaffordable.
- 1.12 It is the matter of affordability that is to be addressed in this paper given the very real benefits that the move presents to both the ongoing operation of the AP school, the continued use of Abbot Alphege by HERS and the longer-term success of Culverhay as a site for a SEND Free School and AP Alternative Provision School.
- 1.13 This paper addresses what those costs are and assesses the relative merits of receiving service charge income and utilities costs, but with a nil rent provision to reflect the wider benefits set out above and, in the report, below.

1.14 It is important to note that Abbot Alphege was opted to tax for VAT purposes on 7th April 2025. All charges flowing from the property now attract VAT.

1.15 However, both Rush Hill AP School and The Partnership Trust have confirmed that their supplies to BANES are an “exempt” supply, which would therefore prevent them from being able to disapply the Councils Option to Tax. This would mean that the schools will not be able to recover any VAT which they incur and will become an additional cost to them.

2 RECOMMENDATION

The Cabinet Member is asked to delegate to the Head of Corporate Estates the power to grant two leases at less than best consideration at a combined undervalue of not more than £112,600 per annum on the terms set out below.

2.1 The granting of a new 3-year lease to MNSP on the ground floor at Abbot Alphege School at nil rent, with service charge and utilities being paid by the tenant but limited by a cap.

2.2 The granting of a new 3-year lease, with annual breaks, to TPT on the first floor at Abbot Alphege at nil rent, with service charges and utility costs being paid by the tenant but limited by a cap.

3 THE REPORT

3.1 MNSP occupy the Former Bungalow at Culverhay School and the SEN Wing of the Culverhay School Building under an extended licence arrangement expiring 13th October 2025 whereupon they will decamp to the Ground Floor at Abbot Alphege.

3.2 At Culverhay, MNSP pay a rent of £53,680 per annum. In addition, there is a provision for a service charge payment which is capped at £300 per month (£3,600 per annum). This charge is a contribution to the repair and upkeep of the premises. The total liability levied on MNSP at Culverhay by B&NES is a maximum of £57,280 per annum. No VAT is chargeable.

3.3 It is understood that the impact of costs borne by MNSP to operate from the premises at Culverhay are marginal in terms of affordability. It is also understood that MNSP are prepared to accommodate unsustainable operational costs in the short term to benefit from a more settled position in the longer term, i.e. a new 125-year academy lease, once the new premises at Culverhay are completed.

3.4 TPT on the other hand, currently occupy the whole of Abbot Alphege School under a 125-year Full Repairing and Insuring Academy Lease, granted in 2017 to Comenius Trust. The rent is a peppercorn. TPT are responsible for maintenance of the building, the plant and machinery, and utilities. However, the Secretary of State is to cease funding the academy as the Primary School has now closed. The lease will automatically determine on this basis (scheduled to be 30th September 2025), at which point TPT will take a new lease of the first floor only (See para 2.2).

3.5 The building does not provide a long-term solution for TPT which is reflected in their ability to determine the lease on each anniversary of the 3-year period of

the proposed term. The planned charges set out below (para 3.7) are a proportional reflection of their current whole building liability.

- 3.6 Therefore, given the need to address affordability as a key determinant when setting the tenant charges, due regard has been given to the practical outcomes of addressing running costs over rent.
- 3.7 To present an affordable package it is therefore proposed that a VAT inclusive position of **£110,000 pa** (split using a Net Internal Area (NIA) basis) would be more reflective of both parties' ability to pay. The supporting argument focuses on running costs only, although given the fixed nature of the charge it could quite easily be called 'rent'. This would result in a VAT inclusive annual charge to MNSP of £70,000 and TPT, £40,000.
- 3.8 As set out in Points (1) – (10) below and paragraph 8 of this report, 'Other Options Considered', the affordability argument impacts the Councils position twofold. Firstly, the Service Charge deficit, estimated to be £7,000 per annum (Point 6 below) across both leases, and secondly the loss of rent which equates to £105,600 per annum across the whole property.
- 3.9 The total annual impact on the Council is therefore the service charge deficit + loss of rent = (£7,000 + £105,600) = **£112,600 per annum**.
- (1) Head of Education Commissioning – Education Inclusion Service has recently stated that the gross (VAT included) position of £70,000 for Secondary AP and £40,000 for HERS exceed current costs for both providers, and therefore it is proposed that no additional rent be charged. 'Imposing rent would render the delivery of these statutory services unviable and place additional pressure on the commissioning budget'
 - (2) A recent recommendation from the Councils tax advisers stated that to protect the Council's VAT Partial Exemption position the site should be opted to tax. This would mean that all the input VAT incurred on the remodelling will be fully recoverable and any rental and other charges to the school would be subject to VAT. We have been advised that MNSP and TPT cannot recover input tax.
 - (3) The figures quoted in point (1) above, broadly align with estimated costs for the property once the enabling works have been completed. The figures in the draft service charge (Appendix 1) are subject to change and currently show a marginal deficit against planned charges.
 - (4) The draft Service Charge shows an apportioned Year 1 cost of £26,541.15 to MNSP. Similarly, HERS have a £16,708.85 liability. These are Year 1 estimates at this stage and may well change once the various maintenance items have been fully costed.
 - (5) Utilities are estimated to be c£55,000 for the whole property, although this is expected to reduce once B&NES own tariff is deployed. While these figures are based on actuals (presented by TPT for year to Dec 2024), the assumption being that B&NES own corporate contract may well be more competitive.

- (6) The overall Service Charge + Utilities position is estimated to be £117,900 (inclusive of VAT) against a planned recovery of £110,000 (inclusive of VAT). This represents a deficit of £7,000 per annum across both leases although we do expect to see some savings through our procurement process for both maintenance and utilities.
- (7) An analysis of the rent payable by MNSP at Culverhay (£57,280 – see 3.2 above) for example equates to £6.58 per square foot. However, one should argue that the rents at Abbot Alphege should be much higher given the age and amenity value of the building. A figure of £7psf (£105,600pa) would therefore be appropriate given the age and quality of the property, and the limited lease lengths involved.
- (8) The potential cost disparity for MNSP between Culverhay and Abbot Alphege remains significant due to potentially higher lease costs and the presence of VAT. It is worth noting that MNSP are not willing participants in the move to Abbot Alphege but see the long-term benefits of the eventual move back to a modern purpose-built AP school on the Culverhay site. The short-term use of Abbot Alphege is inconvenient at best and problematic if costs are significantly out of kilter.
- (9) As already stated, a compromise position can be justified by having regard to the relative merits of MNSP paying an affordable charge to ensure the overall momentum for the Culverhay development site continues and by taking advantage of the fortuitous position we find at Abbot Alphege.
- (10) For TPT, once the move onto the 1st floor had taken place, the proposed costs would remain proportionally neutral, and hence affordable.

4 STATUTORY CONSIDERATIONS

- 4.1 The terms are less than best consideration and as such are not in accordance with Section 123 of the LGA 1972 and member approval is required.
- 4.2 Abbot Alphege Primary School opened in 2017 and due to insufficient take up of places closed in 2024. The 125-year academy lease, dated 7th June 2017 was held by Comenius, now subsumed by The Partnership Trust (TPT).
- 4.3 The Master Funding agreement made between the Secretary of State and Comenius (now TPT) via the Academies Act 2010 will cease on the 13th October 2025. In accordance with Clause 6.6.1 of the lease, the lease *'will automatically determine on the Funding Agreement Termination Date'*, subject to notice (Clause 6.6.3 and 6.6.4).
- 4.4 Under Section 19 of the Education Act 1996, Local Authorities have a statutory duty to arrange suitable education for children of compulsory school age who are unable to attend mainstream school due to exclusion, illness or other reason. B&NES fulfils this duty by commissioning statutory Alternative Provision (AP) services.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 5.1 At present the property benefits from a Full Repairing and Insuring lease to The Partnership Trust who are responsible for the repair and maintenance of the building both internally and externally. The above new lease scenario continues

to prescribe all running costs including utilities to the tenants via the annual charge, albeit on a proportional basis, charged quarterly in advance.

5.2 From 30th Sept the lease to TPT will cease (para 3.4) and the property will revert to B&NES regardless.

5.3 The proposed charges to MNSP and TPT relate only to services in common, such as main plant and machinery, fire and intruder alarms, external building fabric and structure etc, and excludes internal repair and operational costs which are borne by the tenant. Utilities are different as far as this relates to the whole buildings' consumption.

5.4 The £43,250 attributable to the service charge element (excluding utilities) is based on a budget figure only. The budget figure has yet to be tested in terms of quoted costs but have been derived using the last 2 years operational figures supplied by TPT and having regard to our own knowledge and understanding of the site and its future configuration. Similarly, the utility charge estimates are based on actual consumption figures supplied by TPT.

5.5 Beyond lease completions, estimated to be by 1st October 2025, the building will require Facilities Management and Compliance input.

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 Abbot Alphege School was constructed in 2017 using modern insulation materials and has a DEC Rating of 60 C despite having gas fired boilers for the provision of heating and low temperature hot water.

7.2 While there are no plans to change the heating delivery system in the short term, the better use to which the property will be put from 1st October 2025, following the closure of the primary school in 2024, will ensure the continued management and servicing of the plant and machinery thus sustaining the serviceable life of the equipment.

8 OTHER OPTIONS CONSIDERED

8.1 Property Options: It is understood that the Education Commissioning Team have considered alternative sites. A feasibility study was for example commissioned to look at a Council owned site at Dartmouth Avenue in Bath as a potential option. The team invested considerable time reviewing this option but cited the cost of conversion as the principal reason for discounting it.

8.2 Charging Options. The obvious alternative would be to adjust in favour of rent payments, over a service charge and utility payment. A rent for example could be levied and justified at the same level but the reality is that rents (net of VAT), for the whole building at the lower end of the scale, would be in the region of £6 - £7 per square foot equating to a rent of between £90,000 - £105,000 plus VAT overall.

8.3 In essence, a rental value approach (excluding service charge and utility charges) would only be affordable at the lower end of the scale which is arguably well below market rent. It is worth mentioning that the Private Equity sector would most likely pay a rent of £200,000 per annum (£13psf) for Abbot Alphege on SEND lease terms of more than 10 years.

Please see schedule below for a broad example of rents payable at the lower end of the evidence scale.

Floor	Size (psf)	£ (psf)	Rent (excl VAT)	Rent (incl VAT)	£psf	Rent (excl VAT)	Rent (incl VAT)
Ground	9,887.20	£6	£59,323.20	£71,187.84	£7	£69,210.40	£83,052.48
First	5,200	£6	£31,200.00	£37,440.00	£7	£36,400.00	£43,680.00
	15,087.20		£90,523.20	£108,627.84		£105,610.40	£126,732.48

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 and Cultural Sustainable Development and the Ward Councillors for Lansdown.

Contact Person	Richard Holden Head of Corporate Estates and Development.
Background papers	Local Authority Asset Management Best Practice (07: 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.pdf
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