

Response to the “Call in” of decision E3181: 23 Grosvenor Place, London Road, Bath BA1 6BA:– Surrender of existing Guinness Housing Association (GHA) lease, subject to payment of a reverse premium

The Decision was taken on 13 December 2019 by Councillor Richard Samuel.

The response to the reasons for the “call in” is set out below beneath each individual reason.

1. *There has been no opportunity for Elected Members to scrutinise the proposals.*

The negotiations for this proposed surrender have been undertaken by Estates’ staff within Economy & Growth in consultation with the Cabinet Member for Finance and Efficiency under the delegations granted in the Council’s constitution. The decision E3181 was taken by the Cabinet Member in light of that consultation.

2. *The report was inadequate, lacked information and did not demonstrate how we came to this recommendation.*

The report identifies in paragraph 6.3 that upon completion of the surrender it is the Council’s intention to dispose of the vacant property on the open market. From the external valuation advice received, reimbursement of the expenditure on the reverse premium will be recovered from any future premium received on disposal.

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.*

The reverse premium of £450,000 represents a combination of the share of marriage value which it is envisaged a surrender such as this will generate upon disposal less any deductions of any compensatory payments to the landlord such as those under a dilapidations claim. The proposed sum payable therefore takes account of the existing condition of the building.

4. *The impact of this decision has not been considered fully within the Council and binds the Council to future spending.*

The responsibility for this proposal is a matter delegated to the Cabinet and is not a matter for the Council. This acquisition will not expose the Council to any additional unrecoverable expenditure. The only additional expenditure in the event of a disposal will be the professional costs of sale which will be chargeable to the premium paid by the purchaser.

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 more than 2 years ago about their desire to surrender this lease.*

This statement is incorrect. Guinness Housing Association approached the Council initially in 2014 although negotiations did not commence until May 2015. The report identifies in paragraph 6.1 that the property is poorly laid out and is now considered by Guinness Housing Association as unsuitable for their residents and that by reaching agreement on the surrender of their lease this would enable them to progress their long term strategy of re-housing their tenants.

- 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.*

As set out in paragraph 3.2, the advice from the Director of Finance was to structure the proposal as a single payment of a reverse premium. This effectively means that that there is only a requirement for a single reverse premium payment representing, a combination of the share of marriage value less any deductions such as dilapidations, rather than two separate transactions involving the payment of a reverse for the surrender and a separate receipt from the tenant to the Council in payment of dilapidations.

This does not however mean the tenant was relieved of any obligations under the lease, which the Council would have a legally enforceable right to receive.

- 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.*

Responsibility for the implementation of Council policy concerning social housing provision sits with the Cabinet Member for Housing. As such decisions on the future for any or all of the total stock within B&NES were matters for the Cabinet members holding that responsibility between 2015 and 2019. It is envisaged that any development of this property following disposal would not see any reduction in the number of general housing units. However, as identified in paragraph 6.1 the building is no longer considered suitable by Guinness Housing Association for the present purpose for the reasons below:

- Grosvenor Place provides general needs housing and, while some of the customers have some medical needs, they are all living independently; the handback does not therefore represent in Guinness Housing Association's view as any loss of specialised housing.
- The configuration of the building itself, formerly a hotel, with dead end corridors, dark basement spaces and no lift provision does not provide a desirable living environment for their customers.
- The property is some way out of Bath and therefore this move represents an opportunity for a number of their customers to move closer to town, in particular to the Housing for Older Persons scheme at the end of Walcot Street.
- The rehousing of these customers will be with a focus of making use of Guinness stock in almost all cases.

6. *No reasons have been given as to how or why the decision was reached to accept the surrendering of the building lease.*

The rationale for the decision was set out in paragraph 6 of the decision report.

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.*

The purpose of this acquisition was identified in paragraphs 6.2 and 6.3 of the report to facilitate the disposal of the property on the open market with the benefit of vacant possession. The reverse premium of £450,000 represents a combination of the share of

marriage value which it is envisaged a surrender such as this will generate upon disposal less any deductions of any compensatory payments to the landlord such as those under a dilapidations claim.

This premium was negotiated by the Council's external commercial property agents GVA as evidenced by Appendix 2, which accompanied the report.

In accordance with professional standards these negotiations were supported by valuations which again comply with the professional standards of the Royal Institution of Chartered Surveyors.

8. *Without careful consideration and scrutiny we will be setting a precedent for future tenants to be able to just walk away.*

It is not envisaged or accepted that this transaction would in any way create or represent any adverse precedent. The current council administration has indicated its intention to expand the supply of social housing units during its term in office.

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.*

The report identified in paragraph 6.3 that upon completion of the surrender it is the Council's intention to dispose of the vacant property on the open market. However, that does not preclude the Council from undertaking a full appraisal to consider further opportunities aside from disposal for this building following completion. *The Cabinet Member for Resources has indicated that a full option appraisal will be undertaken once this property is in the council's control and the outcome of this exercise will be reported to the cabinet.*

10. *Ultimately, we do not believe that the Council is getting best value for money from these arrangements.*

It is maintained that accepting a surrender of the present lease on the basis set out in the report and in the appended Heads of Terms, combined with a disposal of the premises, represents the option that provides the best value for money to the Council.