

## BARNSELY METROPOLITAN BOROUGH COUNCIL

**REPORT OF:** EXECUTIVE DIRECTORS – PLACE HEALTH AND ADULT SOCIAL CARE AND GROWTH & SUSTAINABILITY

**TITLE:** SILVER STREET RESPITE UNIT OPTION TO ACQUIRE

<b>REPORT TO:</b>	<b>CABINET</b>
<b>Date of Meeting</b>	<b>20 September 2023</b>
<b>Cabinet Member Portfolios</b>	<b>Place Health and Adult Social Care and Growth and Sustainability</b>
<b>Key Decision</b>	<b>No</b>
<b>Public or Private</b>	<b>Public</b>

### **Purpose of report**

For Cabinet to consider and provide authority for the next steps in relation to “The Brambles” Silver Street Respite Unit, Silver Street, Dodworth, Barnsley, S75 3NP and in particular with regard to the option to acquire the property.

### **Council Plan priority**

High priority to enable the continuation of service referred to in 1.1 below.

### **Recommendations**

That Cabinet: -

1. Notes the position under the option and existing lease and underlease
2. Authorises Service Director – Legal and Governance to exercise the option and take such steps as they consider appropriate to provide the Council with permanent ownership of the asset.

## **1. INTRODUCTION**

- 1.1 The property at Silver Street (formally known as The Brambles) is a 6-bed, purpose-built facility to enable the delivery of overnight respite for adults with learning disabilities and/or physical health issues. This is the only such commissioned respite service in Barnsley. Adult Joint Commissioning have evidenced the need to continue with the service delivery and will be re-procuring the support service later this year as the current Support contract

ends in March 2024. However, the building arrangements need to be resolved first.

- 1.2 The Council owns the freehold estate in the land on which the building is on and, in 2009, entered into a long lease agreement with South Yorkshire Housing (SYHA) to build the facility and a small housing estate, the facility from which the respite service is delivered and separately some housing. SYHA offered a 15-year leaseback arrangement of the Respite Unit. This lease meant the Council paid SYHA a fee of £30,000 each year, which has essentially funded the construction of the building. SYHA acted as the landlord and dealt with cyclical maintenance. The commissioned support provider (Community Integrated Care ) delivers the service and is responsible for costs related to the use of the building; however, the utility costs are paid by the Council.
- 1.3 Under the lease agreement (Appendix 2), the Council has an option to go from being the underlessee after a 15 year £30,000 per annum rental “leaseback” arrangement with South Yorkshire Housing Association (SYHA) to being the unencumbered freeholder of the Respite Unit. If the Council exercises the option, the property will be transferred to the Council at nil cost.
- 1.4 The way it will work is for the Council to serve notice upon SYHA under the Option Agreement. This must be done by 13 October 2023. Then, following service of the notice, the headlease will be surrendered by SYHA to Barnsley Council. The underlease (under which the Council currently occupies) will come to an end by way of merger and extinguishment. Then on 14 April 2024, the council will grant a new 125-year lease to SYHA less the property we are retaining (the Brambles Respite Unit), which will be the long-term settled position.
- 1.5 SYHA is aware of this proposal and has been informed of the Council’s intentions and consulted on the process of transfer. As such, it is not envisaged that there will be a legal challenge or delay in implementation from SYHA.

## **2. PROPOSAL**

- 2.1 To serve notice under the Option Agreement such that the Council obtains the freehold of the building but without the 125-year lease to SYHA.
- 2.2 To settle all rental due under the existing 15-year lease. Thereafter there will no longer be a £30,000 per annum rental for the Council to pay.
- 2.3 Acting in this way will see the Council acquiring a purpose-built respite building at nil cost. This will enable service continuity at the property.

## **3. IMPLICATIONS OF THE DECISION**

### **3.1 Financial and Risk**

Consultations have taken place with representatives of the Director of Finance (S151 Officer).

Under the terms of the underlease, the Council currently pays an annual ~~cost~~ of £30,000, which covers the repairs and maintenance and cyclical testing at the property. Exercising the option and acquiring the property would remove this annual rental liability from next financial year.

On acquiring the property, the repairs and maintenance and cyclical testing cost liability will rest with the Council. Last financial year's repairs and maintenance costs were c£14,000, as supplied by SYHA.

The new liability will be accounted for from the current rental budget with no additional budget ask, and the new running cost liability will be contained by the removal of the annual rental payment. This would generate an annual saving of c£16,000 from 2024/25, which will be included as part of Asset Management Strategy efficiencies. If a potential efficiency occurs in 2023/24, this will be used to help mitigate other property services budget pressures.

Also, note that under the terms of the underlease, the Council is responsible for paying utility costs associated with the running of the property. Therefore, there will be no change in liability in this respect, and there is already a budget in place for these costs.

### **3.2 Legal**

On the approval of this report, the Service Director Legal and Governance will take conduct of the matter, will serve notice under the option and then liaise with solicitors for SYHA in completing the transaction.

### **3.3 Equality**

An Equality Impact Assessment is not required, given that the building is already in place together with the service provision. There is no intention to change these arrangements.

### **3.4 Sustainability**

A decision-making wheel has not been completed as the sustainability of the recommendation as set out in the report will not impact the Council.

### **3.5 Employee**

The externally procured service provision is expected to continue. Therefore, there are no direct Council employees affected.

### **3.6 Communications**

SYHA are fully aware of the Councils plan to take ownership of the Silver

Street property. Early meetings have been held with SYHA representatives, and their Board is sighted.

People who use the service and their families are not concerned with the ownership of the building asset but are very interested in the service delivery at the Silver Street property. As such, they have not been consulted on this proposal – but will be fully consulted with the procurement of the support service in the latter part of 2023.

The Communications and Marketing team will fully support the service with any communication needs. We will keep the public informed about the outcome of this cabinet decision through social media updates, consistent with our communication approach for cabinet meetings. Additionally, the Communications and Marketing team are supporting with the communication strategy for the support reprocurement that will take place October – December 2023.

#### **4. CONSULTATION**

A list of stakeholders consulted during the preparation of this report includes Property, Health and Adult Social Care, Legal, and Finance.

Local Ward Members are aware and supportive of these proposals.

#### **5. ALTERNATIVE OPTIONS CONSIDERED**

5.1 The alternative of not serving notice has been considered: However, if the Council fails to exercise the option, the council may be able to renew its current underlease at a revised rental. This alternative is less attractive as it is potentially expensive and uncertain.

5.2 In addition, not serving the notice could mean that the Council is not granted a new lease if (for example) SYHA are looking to occupy the property for their own business purposes. If this is the case and a hostile Section 25 notice is served under the Landlord & Tenant Act 1954, then the Council's occupation would terminate at the end of the lease, given that this is a mandatory ground for repossession under the 54 Act.

5.3 The acquisition of this property for valuable service delivery has been considered in line with the Asset Management Strategy (i.e., divestment rather than investment). However, even if the service was not going to continue at the property, the Estates Team have advised that the Council should serve notice as the building has a substantial positive asset valuation, and the building could either be used for some other service provision / purpose or sold.

#### **6. REASONS FOR RECOMMENDATIONS**

6.1 The proposal will see service continuation and the acquisition of a purpose-built asset, which the council has effectively funded through payment of £30,000 a year for 15 years.

**7. GLOSSARY**

N/A

**8. LIST OF APPENDICES**

Appendix A: Financial Implications  
Appendix 1: Site Plan  
Appendix 2: Copy of the underlease

**9. BACKGROUND PAPERS**

Correspondence regarding this matter is held on the files in Property – Estates – not available for inspection contains exempt information.

If you would like to inspect background papers for this report, please email [governance@barnsley.gov.uk](mailto:governance@barnsley.gov.uk) so that appropriate arrangements can be made.

**10. REPORT SIGN OFF**

<b>Financial consultation &amp; sign off</b>	Senior Financial Services officer consulted and date.  <b>Appendix A</b>
<b>Legal consultation &amp; sign off</b>	Legal Services officer consulted and date . <b>Ian Coupe, Solicitor, Senior Legal Officer 11 July 2023</b>

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**Date: 11/07/2023**