

Notice of KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendix 1 is not available for public inspection as contains exempt information within the meaning of paragraph no.3 of Schedule 12A to the Local Government Act 1972. It is exempt because it refers to commercially sensitive information, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Subject Heading:	Approval to grant accommodation licences to residents and a lease to a provider of support in Brunswick Court
Cabinet Member:	Councillor Joshua Chapman, Cabinet member for Housing
SLT Lead:	Patrick Odling-Smee, Director of Housing Services
Report Author and contact details:	Paul Burgin, 01708 43 1090, paul.burgin@havering.gov.uk
Policy context:	Communities Theme: The needs of our most vulnerable residents are identified and met. The support service will be assisting vulnerable young people and adults to further develop their independence skills and to enable them to move on to independent accommodation.
Financial summary:	The residents will occupy either a studio or one bedroom flat and be charged a

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	weekly licence fee together with other associated costs. The Provider will be granted a lease for a term of three years for a two-bedroom flat. The estimated Rent and Council Tax to be collected is detailed in the exempt appendix A.
Reason decision is Key	Expenditure or saving (including anticipated income) of £500,000 or more.
Date notice given of intended decision:	13 th May 2021
Relevant OSC:	Children & Learning, Towns & Communities and Individuals
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

The subject matter of this report deals with the following Council Objectives

Communities making Havering	<input checked="" type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

This report seeks approval to grant the following:

- (1) A lease of two bedroom flat in Brunswick Court which will be contracted out of the Landlord and Tenant Act 1954. The lease will be coterminous with a services contract granted to the provider Inclusive Care Support.
- (2) licences to occupy to residents to reside in either a studio or one bedroom flat under the Local Authorities duty to accommodate under the legislation following:
 - The Children's Act 1989, section 20
 - The 22g of the Children's Act 1989
 - Care Act 2014
 - Part VII Housing Act 1996 (homelessness provisions)

The placement period per resident will vary but the total lifetime of placements will be from May 2021 until April 2024.

AUTHORITY UNDER WHICH DECISION IS MADE

Constitution under Part 3: Responsibility for Functions
Part 3.8.2 Assistant Director Housing:

(r) To provide support services for elderly and other vulnerable people (whether or not they are tenants of the Council) in accordance with approved schemes.

STATEMENT OF THE REASONS FOR THE DECISION

1. Background

Brunswick Court is a former sheltered housing scheme that is due to be re-developed as part of the Havering regeneration programme. It is located in a quiet residential area of Cranham (RM14 1ND). The former sheltered housing tenants have moved out to alternative accommodation and the building presents a short-term opportunity to provide low level supported accommodation. It is intended that the scheme will run for a period of three years or until redevelopment works commence at Brunswick Court site.

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The Housing department in consultation with sheltered housing has agreed to make the scheme available to;

- (a) Young people leaving care, mother and babies and vulnerable adults. There are 23 placements within this group and each individual will be placed in either a one bedroom or studio flat located on the (ground or first floor) of Brunswick Court.
- (b) Those in supported housing arrangements - such as vulnerable single people living in unsuitable, shared accommodation in Havering. This is mainly for people with medical conditions, who should not be sharing during Covid, but also for other vulnerable, single people who need supported housing. There are 23 placements within this group and will be supported in a separate wing of Brunswick Court. The referrals come through from the supported and sheltered housing teams; the individuals do not have needs around care, but need support from the Supported Housing Officer.
- (c) Brunswick Court provides a valuable resource as a pathway to support young people leaving care (including mother and babies) and vulnerable adults to achieve full independence in Havering. This scheme is an important strand in a wider portfolio of other supported and semi-independent housing options being developed by the Council to support the vulnerable and homelessness.
- (d) The Future Accommodation Needs in Havering report was commissioned by the Joint Commissioning Unit to estimate the future accommodation requirements for looked after children, care leavers (including mother and babies), and children and adults with disabilities between year 2019 – 2023.

The report identified that Local Authorities have wide-ranging obligations to provide suitable housing for vulnerable children and adults. In meeting those obligations, Councils have previously funded and delivered a range of accommodation directly. In more recent years, competition and the price of accommodation in the London market has constrained Local Authorities' ability to deliver this on a strategic scale and they have relied on contracting with other parties to deliver the range of accommodation solutions required. As a consequence there is insufficient choice for vulnerable people within the Borough and many people have to relocate to receive the housing and support they need out of borough.

The report was completed at the beginning of 2019 and the recommendations have been picked up through the Housing and Independent Living Steering Group.

e) Statutory Duties

Section 20 under The Children's Act 1989 requires Local Authorities to provide accommodation for individuals in care or in receipt of social care services.

Section 22g of the Children’s Act 1989 requires Local Authorities to publish a ‘Sufficiency Statement’ of how they are providing sufficient accommodation for children in care and care leavers.

Section 15.59 of the Care Act: “Housing plays a critical role in enabling people to live independently and in helping carers to support others more effectively. Poor or inappropriate housing can put the health and wellbeing of people at risk, where as a suitable home can reduce the needs for care and support and contribute to preventing or delaying the development of such needs. Housing services should be used to help promote an individual’s wellbeing, by providing a safe and secure place in which people in need of care and support and carers can build a full and active life. That is why suitability of living accommodation is one of the matters local authorities must take into account as part of their duty to promote an individual’s wellbeing”. (*Care Act 2014, 15.59, Integration, cooperation and partnerships, page 239*).

2: Licence to the resident

Each resident will be granted a licence to occupy either a one bedroom flat or studio in Brunswick Court on the terms set out in the Head of Terms attached. The licence will run until it is determined in the event that the resident no longer requires the support offered by the scheme or breach of the licence (for example, falling to pay their rent, incidents of anti-social behaviour. The maximum period of time that a resident is expected to remain at Brunswick Court is 12 months. The placement period per residents will vary and be subject to the needs of the particular individual. Residents will be charged on a weekly basis, for the occupancy of their accommodation. However, the licence will not be granted for a specific term. Doing so could inadvertently create a tenancy. The stipulation of a term is one of the hallmarks of a tenancy.

The Council will retain management and control of the room; similar to an arrangement of a hotel room occupancy. The Council intends to implement a curfew and enforce guidelines such as no visitors before 10am and after 22:00 hours and no overnight visitors.

The resident will not have any statutory rights to remain in the property and the right to occupy will be personal and cannot be passed on to any other party.

The resident will not have exclusive possession of the flat or studio since the Council will have the right to move the residents to other flats within the building.

Due to the nature of the service to be provided, which is a short term intervention to develop independence.) We have chosen to issue residents with licences rather than tenancies for the following reasons:

- To retain the flexibility to move residents around the building where it is identified that a resident has particular accessibility or mobility needs. to be accommodated e.g. mother and baby on the ground floor (there are no lifts at Brunswick Court).

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- The nature of the project is to develop independence and the timescales of when this may be achieved will vary from person to person. Therefore, the scheme requires flexibility to identify alternative long term sustainable accommodation.
- There are advantages for a Local Authority in not issuing a licence instead of a secure tenancy. If the Local Authority wishes to recover possession of the accommodation, then providing it terminates the licence in accordance with its terms and conditions, the court must grant an outright possession order. By contrast, in possession proceedings brought against a secure tenant, the court has wide powers to suspend or postpone a possession order. The effect of this is that the resident is allowed permitted to remain in occupation, so long as they abide by the terms of the suspended or postponed possession order. If the resident breaches the terms of the order, an application for a warrant of possession, can be made to the court, to evict the resident. In response however, the resident may make an application to stay the warrant. If successful, the resident would be allowed to remain in occupation on terms stipulated by the court. This process of making an application for a warrant of possession; and the warrant being suspended, following an application from the resident, can be repeated several times, before the court finally dismisses the resident's stay application and is evicted from the accommodation.

The Council will provide the following support services;

- (1) Supported Housing Officer - the officer will be based on site on Monday to Friday during office hours to offer housing management support such as :
 - Advice & assistance to understand and comply with the licence conditions
 - Annual individual risk assessments to ensure any risks are identified and referrals to support agencies made if necessary
 - Regular welfare checks to ensure your safety and well-being (this will be at a frequency agreed with the individual tenants)
 - Assistance in sustaining all aspects of the tenancy
 - Signposting and accessing support from other services e.g. budgeting support; assistance with debt management from 5 voluntary agencies; accessing support to assist with alcohol/substance related matters
 - Provision of pendants for vulnerable residents
 - Testing and maintenance of the Pull Cord Telecare system
 - Increased inspections and maintenance of the building, including health and safety issues, to address increased wear and tear to the property and facilities
 - Assistance in claiming/managing housing benefit application
 - Advice and assistance on using equipment within the property
 - Advice and assistance regarding security of the tenants' home
 - Monitoring and signposting for social services care services
 - Arranging repairs to communal areas, including fixtures and fittings
 - Information and advice to licencees relating to use of communal areas

- (2) Careline - The careline is a hub for telecare in the home, monitoring the environment 24 hours a day for events. Each property will have a pull chord or pendant that can be activated in an emergency.
- (3) Bespoke Support Service – each resident placed will have an assessment to develop a person centred support plan to achieve key outcomes and independence. Their skills will be developed in their own accommodation which will be a real test bed to identify whether those placed can learn to live independently within the framework designed by all the stakeholders involved in this project. Those placed will have responsibilities perhaps for the first time and have to manage their own front door and be responsible for paying household bills like: rent, service charges, food, travel, council tax and cleaning products.

The proposed support model is one that delivers low level but structured support with the following aims:

- Developing responsibilities around holding a tenancy in the future, paying rent, incorporating an approach around 'good' neighbour issues
- Budgeting, managing money, accessing benefits and addressing debt
- Maintaining good levels of personal appearance and hygiene
- Accessing training, education, volunteering or employment by having the skills to use public transport, seek and maintain yourself in sustainable employment.
- Addressing chaotic, offending or anti-social behaviours
- Creating positive social networks and knowledge about community resources.
- Encouraging and supporting people's well-being and healthy
- Encouraging and supporting people to stay safe including safeguarding against the dangers of substance misuse, sexual exploitation, abuse etc.
- Improving daily living skills such as cooking, meal planning, healthy eating, laundry, cleaning, housekeeping, etc.
- Signposting to more specialist services, when required
- Dealing with issues around confidence and developing maturity, including issues to do with sexuality, effective use of contraception and safe sex
- Developing a culture whereby individuals value independence and acquire the skills to sustain independent living.
- Development of interpersonal skills to allow you to advocate for yourself and an understanding of your legal rights.
- Parenting support, care and an understanding the skills to aid child development and motherhood.

(3) Accommodation

1) Furnishings

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Each resident placed will be assigned either a one bedroom or studio flat, each flat provided will be partially furnished with:

- Carpets
- Mahogany effect flooring
- Galley kitchens
- Bathroom: sink, toilet and walk in shower (There are no baths)
- Fridge
- Cooker
- Double bed
- Faux leather Sofa
- Table and x2 chairs
- Chest of draws
- Telecare line

Communal areas

Those placed at Brunswick Court will have access to a communal lounge area with a small adjoining office. Additionally there is a large laundry room with three/four washing machines, three/four dryers, toilets and a sizeable kitchen. These areas will be used for social interaction and group work which will be delivered by the Housing Support Officer and the support provider to develop life skills and to help promote independence.

2) Charges (under the Licence):

All those placed will liable for the following costs and charges. The costs and charges have been determined following an assessment by the Council's Income Team. However, it may be that not all of these charges would be covered by Universal Credit.

- Licence fee (Rent)
- Communal/Satellite TV Aerial
- Bulk Rubbish Collection
- CCTV Fixed
- CCTV Mobile
- Block Cleaning
- Door Entry
- Estate Environmental Services
- Fixed Security System
- Grounds Maintenance
- Community Warden Furniture Charge
- Gas & Heating Charge
- Supported Housing Cleaning
- Supported Intensive Housing Management
- Water & Sewage
- Council Tax

(3) Control and Management

The Council will retain responsibility for the management and operation of the building (Brunswick House). A housing officer will be on site between 9-5 Monday to Friday. There will be an out of hours service that can be contacted through careline.

The licence will be between the (1) Council and (2) resident

3. Lease to the provider

The support provider will have access to a two bedroom flat on the site. This will act as an office, place where some services can be delivered and also where they can be available to provide overnight support for those that require it.

As detailed above the provider will be providing support in order to support those placed to develop their independence skills. The provider will be contracted to achieve key outcomes to evidence the transition to independence.

The office and service space allocated to the provider at Brunswick Court will also have a washing machine to provide 1:1 tuition for those who need support in learning to wash their own clothes. In addition the provider will have access to the scheme's CCTV system to ensure that those placed are safe and provide some re-assurance to those placed.

The Council will grant a lease to the provider and on the terms set out in the Head of terms appended to this report for a term of 3 years. The lease will be contracted out s24-28 of the Landlord and Tenant Act 1954 therefore, the provider will not have a right to remain in the property at the end of term or the right to renew the lease.

The lease will be coterminous with the Services Contract and contain a break clause that will allow the Council to terminate the lease in the event that the provider fails to deliver the service efficiently.

The lease will include an inventory detailing all the white goods and soft furnishes such as :

- washing machine,
- CCTV and
- Carpeted office.

2) Charges (under the Lease) which the provider will be liable for:

- Rent 2021/22
- Communal/Satellite TV Aerial
- Bulk Rubbish Collection
- CCTV Fixed
- CCTV Mobile
- Door Entry
- Estate Environmental Services

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- Fixed Security System
- Grounds Maintenance
- Gas & Heating Charge
- Water & Sewage
- Council Tax

The level of licence, lease income and council tax to be collected is detailed in the exempt appendix A.

4. Licence & Lease Income

See appendix A – exempt.

OTHER OPTIONS CONSIDERED AND REJECTED

To accommodate residents:

1. Option one:

Do nothing and issue a secure tenancy but the tenant has the right to remain in the property unless you can prove to the court that you are entitled to possession on one or more of the grounds set out in Schedule 2 of the Housing Act 1985. The Council does not have the automatic right to repossess the property when the tenancy comes to an end.

2. Option two:

By issuing a licence, for a temporary period, which is wholly dependent on the individual resident's needs, it allows the licensor (the Council) or licensee, the flexibility to determine the licence subject to reasonable notice being given, in accordance with the terms of the licence agreement. For instance, the licence could be determined in the event that the licensee no longer needs the accommodation or the Council requires the property back due to a breach of licence. At the end of the licence period, the Council can decide to renew the licence for a new term.

Option two is the recommended option.

To accommodate the provider:

The only option considered is to issue a lease, as this will be linked to the support service contract. If the support contract is terminated due to poor performance, the lease will end. The service will be monitored to mitigate this happening.

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PRE-DECISION CONSULTATION

The pre-decision consultation has involved engaging with a number of stakeholders in discussions on whether a licence or a tenancy in the most viable option. In summary, the following table presents the type, methods and stakeholders engaged in the pre-decision consultation;

Type	Methods	Consultees
Project Group	Formal regular virtual meetings, phone calls, E-mails and reports	a) Joint Commissioning Unit b) Housing c) Legal d) Human Resources e) Finance f) Department of Works & Pensions g) Council Tax Benefits

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Paul Burgin, Senior Commissioner and Project Manager

Designation: Joint Commissioning Unit

Signature:



Date: 30/04/21

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

Lease

The provider will be granted a lease for a term of three years which will be excluded from the security of tenure provisions in the Landlord and Tenant Act 1954 (the 1954 Act) and be coterminous with the services contract. The provider will not have the right to remain in the property once the lease expires or the right to renew the lease. Terms will be incorporated in the lease to ensure the operation and the performance of the services contract.

Upon completion of the lease, the Legal Property team will produce a completion report detailing the terms of the new lease which will be circulated to the relevant departments of the Council.

Licence

The accommodation at Brunswick Court, comprises of 46 self-contained units. Each unit has its own front door, bathroom and kitchen. These characteristics would ordinarily, lead to the resident being classed as a tenant rather than a licensee, because for all intents and purposes, the resident has exclusive possession of the unit. Street v Mountford [1985] UKHL 4

However, under the terms and conditions of the licence, the Council will retain control of each unit and will reserve the right to move a resident to a different unit. It will also be an express term of the licence that the resident must engage with the support services provided to them.

The above terms and conditions, particularly the Council's intention to retain control of each unit, should result in the resident being classed as a licensee rather than a tenant. This is because they will not have exclusive possession of the accommodation they occupy.

It is absolutely essential that the housing needs of each resident is assessed, prior to entering into a licence agreement at Brunswick Court and that it is made clear that the accommodation is being provided on a temporary basis, pursuant to the Council's duties under Part VII Housing Act 1996 or under some other statutory duty.

Please note that a secure tenancy may be granted inadvertently, if the resident is given exclusive possession; the licence does not make it clear under which statutory duty the resident is being accommodated; or if the support services referred to are not delivered.

As these licences are not excluded under section 3A Protection from Eviction Act 1977, in order to recover possession the Council must serve a Notice to Quit, giving the resident at least 4 weeks' notice that they must vacate the unit. If the resident is still in occupation when the Notice to Quit expires, then a possession order must be obtained to evict them

FINANCIAL IMPLICATIONS AND RISKS

This report requests the approval to grant accommodation licences to residents and a lease to a provider of support in Brunswick Court. The residents and provider will be charged a service charge, council tax and rent. The service charge will cover the costs of the services provided as described above. The rent and Council tax charges are detailed in exempt appendix A Brunswick Court Licence and Lease Income.

HUMAN RESOURCES IMPLICATIONS AND RISKS

The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have 'due regard' to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, and sexual orientation.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

The service will work to meet the needs of our most vulnerable residents and to ensure that they are identified and met. The support service will be assisting vulnerable young people and adults to further develop their independence skills and to enable them to move on to independent accommodation.

Through contract monitoring a number key characteristics will be collected, monitored to deliver improved outcomes.

HEALTH AND WELLBEING IMPLICATIONS AND RISKS

Homelessness impacts on health and well-being in many different ways including on mental health. To ensure the most vulnerable people in our care are looked after, and supported to thrive and progress in life, we are developing this service to help contribute towards the reduction in homelessness and rough sleeping.

The support service will have a positive impact on the health and well-being on young people and vulnerable adults placed.

Across all the cohorts placed they will be signposted to the local health services that will promote and support positive health. This will include sexual health awareness and prevention of sexually transmitted diseases. Mother and babies being directed to

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register with GP's and health visitors. Those with a mental need to access professionals as required.

Support to access services relevant to their own physical, emotional and mental health needs.

They will also be supported by the provider to work towards building strategies and skills to enable them to live on their own or with others.

By improving these and a range of life skills it is expected that this will improve the chances of those placed of managing their own tenancies and to live independently in the community.

This will reduce the inequalities related to these vulnerable groups:

- Young people leaving care
- Mothers in care with a baby
- Adults with a mental health need
- Adults with a learning disability

The provider will work towards achieving the service aims and will evidence achievement through quarterly contract meetings.

Championing early intervention and increasing support for mental health will drive our clear and genuine aspiration to eliminate rough sleeping in Havering by 2022. (Havering's Prevention of Homelessness Strategy 2020-25; Councillor Joshua Chapman, Cabinet Member for Housing).

BACKGROUND PAPERS

1. Brunswick Court Licence & Lease Income Appendix A
2. Non Key Decision - Support Service at Brunswick Court – Approval to proceed with the procurement of a support provider
3. Key Decision - Approval to Award a Contract for the Provision of a Support Service Contract at Brunswick Court

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Delete as applicable

Proposal NOT agreed because

Details of decision maker

Signed

Name:

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date:

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____