

Birmingham City Council

Report to the Leader and Cabinet Member for Homes and Neighbourhoods jointly with Director - Inclusive Growth, Chief Finance Officer and Acting Director Neighbourhoods



Date: 25 July 2019

Subject: APPROPRIATION OF 157 ALLENS CROFT ROAD
BRANDWOOD

Report of: ASSISTANT DIRECTOR NEIGHBOURHOODS

Relevant Cabinet Member: Councillor Sharon Thompson, Homes and Neighbourhoods

Relevant O &S Chair(s): Councillor Penny Holbrook – Housing and Neighbourhoods

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Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s): Brandwood & Kings Heath		
Is this a key decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, add Forward Plan Reference:		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential :		

1 Executive Summary

- 1.1 To seek approval to the appropriation of the property known as Brandwood Community Centre, 157 Allens Croft Road (site plan attached at Appendix 1) from the Housing Revenue Account (HRA) to the General Fund in order to complete a Community Asset Transfer (CAT) of the property to the Brandwood Community Association in line with the CAT Protocol approved by Cabinet on the 14th March 2011.

2 Recommendations

- 2.1 To approve the appropriation of the site at 157 Allens Croft Road, known as the Brandwood Centre (the Property) from the Housing Revenue Account as the Property is no longer used for housing functions under the Housing Act 1985, to the General Fund for community use and the promotion of wellbeing under the Local Government Act 2000 at a cost of £8,000 per annum.
- 2.2 Subject to the relevant criteria being met, to approve the lease of the Property to the Brandwood Community Association on Community Asset Transfer terms, whereby the market rent for the property is discounted according to a Valuing Worth process (as per the Protocol approved by Cabinet on the 14th March 2011).
- 2.3 Authorise the Assistant Director - Property Services to negotiate and complete the lease in accordance with the CAT letting process.

3 Background

- 3.1 The Property was operated by the City Council as a Neighbourhood Office until the service closed down in 2008, whereupon it was leased to a local community group (the Trustees of Brandwood Community Centre Association) to operate as a community centre, on a grant-for-rent arrangement.
- 3.2 The Brandwood Community Association is a registered charity, and runs the Property with a small staff team, supported by a voluntary Management Committee. The Property is located in an area of the City where there is a preponderance of social housing (including Council Housing) and high levels of deprivation.
- 3.3 Social, recreational and sporting clubs operate on site and the charity has secured Lottery funding to run activities to support the long-term unemployed and single parents back into work. It also offers debt and benefit advice sessions, basic computer skills, and work placements and training. It runs a lunch club for elderly residents and the Centre Manager has recently taken on the role of chairing the Constituency Neighbourhood Network, which supports the Adult Social Care Prevention First agenda.
- 3.4 The Community Association is well regarded and has significant support locally, including from Brandwood & Kings Heath Ward Councillors, local residents and the Cabinet Member Homes and Neighbourhoods. It is the only Council owned community centre in Birmingham to have secured quality accreditation (PQASSO).
- 3.5 The lease and the associated grant-for-rent arrangement expired on the 24th March 2018. At that point the tenant had a right to be migrated onto a Community Asset Transfer lease, as per the Council's current policy set out in the March 2011 Cabinet report, which ended the renewal of grant-for-rent arrangements. However, HRA held assets cannot be transferred in this way,

without the HRA receiving financial compensation equivalent to the market value of the asset.

- 3.6 The Property should have been appropriated out of the HRA in 2008 prior to being leased out, but this was not undertaken at the time. Normally in a grant-for-rent arrangement the relevant service pays a grant equivalent to the market rent to the receiving third sector organisation which is then returned as a rent payment – a circular transaction now managed as internal movements between BCC accounts. In the case of properties held by the HRA the “circle” is incomplete with the HRA retaining the rent income and the cost falling on the service. To date the £20,000 annual market rent figure has been paid to the HRA by successive community service departments. With the demise of the old Local Services Directorate and the loss of the associated budget for third sector grants, the unfunded budget pressure now sits in the new Neighbourhoods Division within the Neighbourhoods Directorate.

4 Options Considered and Recommended Proposal

4.1 The main options are as follows :

- Charge the Tenant the Market Rent of c£20,000 per annum – this figure cannot be afforded by the Community Association; is out of step with the arrangement in place for other similar organisations across the City; and is contrary to both the intention of the Council’s 2011 CAT Protocol and the more recent Council Property Strategy in regard to community assets. The likely outcome would be debt recovery action/eviction and the closure of the Centre with the loss of services provided specifically to disadvantaged client groups with concomitant adverse public, political and media reaction.
- Reinstate the Grant-for-Rent Arrangement – this cannot be afforded by the Neighbourhoods Community Service as there is no remaining budget for grants to third sector organisations, and it would be contrary to the 2011 CAT Protocol which established that grant-for-rent arrangements would not be renewed when they expired.
- Appropriation from the HRA to the General Fund and Offer a CAT Lease – this will resolve a historical anomaly, relieve the Neighbourhoods Service of a £20,000 annual budget pressure, and secure the charity’s on-going social and welfare support to local residents in an area of high need (thus reducing demand on mainstream Council services). It will also regularise the Community Association’s continued occupation of the Property which since the expiry of the previous lease has been that of “tolerated trespasser” which is hindering their ability to apply for external grant funding. This is the recommended option.

5 Consultation

- 5.1 The Cabinet Member Homes & Neighbourhoods has been consulted on the contents of this report and supports the recommendations.
- 5.2 Elected Ward Members for Brandwood & Kings Heath have been consulted on the contents of this report and support the recommendations.
- 5.3 Officers in City Finance, Legal Services, Birmingham Property Services, Housing and Neighbourhoods have been involved in the preparation of this report.
- 5.4 Discussions have been held with the Brandwood Community Association and, subject to approval by Council of the proposal, the Management Committee has formally registered their support and agreement.
- 5.5 A petition against the introduction of market rent at the Centre has been presented to Council and a significant amount of correspondence has been received from residents and service users seeking to secure the continuation of the Community Association on site.

6 Risk Management

- 6.1 The main risks with community leases are around the long term financial viability of any community tenant, their ability to manage and maintain properties, and the extent to which they continue to use the asset as intended to meet the needs of the community. Any such risks are mitigated through the CAT application process which includes a “due diligence” exercise and by the terms of the lease which safeguard the Council’s interests and place specific “obligations” on the tenant. In this case, the risks are further mitigated by the successful track record of the Brandwood Community Association on site, the strength and commitment of its Management Committee, and the support of user groups and residents.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council’s priorities, plans and strategies?

- 7.1.1 **Council Property Strategy** - the objective of the Community Portfolio is to enable the City Council to make effective use of its property assets to support third sector organisations, such as the Brandwood Community Association, to deliver against the Council’s core objectives - providing and enhancing services for the community: supporting the development of neighbourhoods and strengthening social cohesion, building community capacity, and leveraging external funding through sport, culture and community activities.

7.1.2 **Working Together in Birmingham Neighbourhoods** – the provision of a network of community hubs managed by third sector organisations provides safe social spaces where people of different ages and backgrounds can interact in a positive way, thus supporting community integration and the development of strong local networks. Creative use of property assets can unlock local innovation, enable community action, support resident-led solutions, and attract external funding. It takes devolution of control and resources to neighbourhoods, creating long-term social value.

7.1.3 **Prevention First** – the existence of thriving community facilities is essential to deliver the vision of using community assets to enable individuals to live independently for as long as possible, without recourse to Adult Social Care services.

7.1.4 The operation of the Brandwood Centre will make a direct contribution to the Council Plan 2018-2022 priorities as follows :

- **Birmingham is a great city to live in** – we will work with our partners to build a fair and inclusive city for all – delivered by the provision of benefit and money advice services
- **Birmingham is an entrepreneurial city to learn, work and invest in** – we will create opportunities for local people to develop skills and make the best of economic growth – delivered by an externally funded programme of skills training and employment support
- **Birmingham is a fulfilling city to age well in** – we will work with our citizens to prevent social isolation, loneliness and develop active citizenship – delivered by providing a range of activities for over 50's including a regular lunch club
- **Birmingham residents gain the maximum benefit from hosting the Commonwealth Games** – we will encourage citizens of all abilities and ages to engage in physical activity and improve their health and well-being – delivered by fitness and physical exercise sessions

7.2 Legal Implications

7.2.1 Any land which is not being used for housing purposes under the Housing Act 1985 should be appropriated to the General Fund for an alternative non housing authorised function, as is proposed. S122 Local Government Act 1972 authorises an appropriation of land for any purpose where the land is no longer held for the purposes which it was held immediately before the appropriation.

S88 of the Localism Act empowers a local authority to determine if land has community value if use of the land furthers the social wellbeing or social interests of the local community. The Local Government Act 1972 general disposal consent (England) 2003 enables local authorities to dispose of land for less than best consideration where the disposal will help to secure the promotion or improvement of the economic, social or environmental wellbeing of its area provided the undervalue does not exceed £2,000,000.00 and the local authority ensuring that the disposal complies with normal and prudent commercial practices, including obtaining the view of a professionally qualified valuer as to the likely amount of the undervalue.

7.3 Financial Implications

7.3.1 By law, the HRA must be compensated appropriately for any appropriation of assets to the General Fund. Birmingham Property Services have provided a market valuation of the property of £200,000 resulting in an equivalent annual charge of £8,000 per annum in perpetuity. This cost will be met from within the Treasury Management budget.

7.3.2 The appropriation of the Property from the Housing Revenue Account and letting on CAT terms will relieve the Neighbourhoods Service of an unfunded budget pressure £20,000 per annum.

7.4 Procurement Implications (if required)

7.4.1 There are no procurement implications arising from this report.

7.5 Human Resources Implications (if required)

7.5.1 There are no human resources implications arising from this report.

7.6 Public Sector Equality Duty

7.6.1 Due regard has been given to the duty in respect of the protected characteristics and groups under the Equality Act 2010. There are no specific equality implications associated with the appropriation of the Property from the HRA to the General Fund as the Property will continue to be used for community purposes. (EQUA303 attached at Appendix 2)

8. Background Documents

None

List of Appendices accompanying this Report (if any):

1. Site Plan
2. EQUA303