



City of Westminster

Cabinet Member Report

Decision Maker:	Cabinet Member for Finance and Council Reform
Date:	11 April 2024
Classification:	Part Exempt - Appendix A is exempt from disclosure by virtue of the following Paragraphs of schedule 12A to the Local Government Act 1972: Paragraph Three: Information relating to the financial or business affairs of a particular person (including the authority holding that information
Title:	Grant of New Lease for Beachcroft House
Wards Affected:	Maida Vale
Policy Context:	Fairer Council
Key Decision:	No
Financial Summary:	Under the terms of this contract, annual rental income and service charges will be charged to the tenant for the use of the property. There are separate budgets in Adult Social Care which cover the commissioned contract costs which are coterminous with this lease.
Report of:	Claire Nangle – Interim Director of Corporate Property and Strategic Asset Management

1. Executive Summary

- 1.1 This Cabinet Member report recommends that Westminster City Council ('WCC') grant a new lease to Gold Care Homes (Alan Morkill House) Ltd ('the tenant') on the commercial terms detailed in the restricted appendix.

2. Recommendations

- 2.1 To approve the grant of a new lease to the tenant on the terms within the confidential appendix.

3. Reasons for Decision

- 3.1 A Cabinet Member decision is required as the rent exceeds £125,000 per annum.

4. Background, including Policy Context

- 4.1 Beachcroft House ('the subject property') is a purpose built four storey care home, with 84 bed spaces, set over lower ground and four upper levels with associated landscaping and gardens at rear lower ground.
- 4.2 The tenant has been in occupation of the subject property since 2020, in accordance with the commissioned contract issued by the bi-borough Adult Social Care Team ('ASC'). The initial commissioned contract was issued in July 2020 and expired on 17 June 2021. A direct award for a 12 month contract to cover the period 18 June 2021 – 17 June 2022 was made, with an option to extend until 16 December 2022.
- 4.3 The tenant was issued a lease on 17 September 2020 for a term of 9 months and 11 days. Following expiry of the lease, a Tenancy at Will was issued and remains in place.
- 4.4 ASC have received approval to grant a further direct award to the tenant. The contract will cover the period 17 December 2022 – 31 March 2025, with an option to extend until 31 March 2026. The relevant Cabinet Member report for the direct award is dated 29 December 2023 and made by the Cabinet Member for Adult Social Care, Public Health and Voluntary Sector.
- 4.5 The new lease will be excluded from the security of tenure provisions of the Landlord and Tenant Act 1954 and replace the Tenancy at Will. It will also be coterminous with the direct award contract.

5. Financial Implications

- 5.1 Under the terms of this contract, annual rental income and service charges, to meet service charge expenditure costs (see restricted appendix for value of the rent and service charge), will be charged to the tenant until 31 March

2026. The rental income is equivalent to the existing budget although the service charge income will be additional to the budget. There are separate budgets in Adult Social Care which cover the commissioned contract costs which are coterminous with this lease.

6. Legal Implications

- 6.1 Local authorities are given powers under the Local Government Act 1972, subject to applicable legal constraints, to dispose of land in any manner they wish, including sale of their freehold interest, granting a lease, or assigning any unexpired term on a lease, and the granting of easements. However, a disposal must be for the best consideration reasonably obtainable, as set out in section 123 of the Local Government Act 1972 (except in the case of short tenancies), unless the Secretary of State consents to the disposal.
- 6.2 A lease granted for a term not exceeding seven years is a short tenancy for the purposes of section 123 of the Local Government Act 1972. Therefore, the requirement to obtain the best consideration reasonably obtainable set out in the Local Government Act 1972 does not apply to a lease for a term not exceeding seven years.
- 6.3 The lease proposed by this report is a business lease and the tenant will have a statutory right to a lease renewal at the end of the contractual term unless the landlord and tenant agree to exclude the security of tenure provisions of Part II of the Landlord and Tenant Act 1954 by following a statutory procedure before the tenant becomes committed to take the lease.
- 6.4 Unless the landlord and tenant agree to exclude the security of tenure provisions of the Landlord and Tenant Act 1954 the Council may only bring the lease to an end at the end of the term if certain statutorily limited grounds for doing so can be proven to apply. Otherwise at the end of the term the tenant will have the right to call for a new lease and the Council will be obliged to renew the lease.
- 6.5 The Cabinet Member Terms of Reference delegate the powers of this decision to the Cabinet Member. Paragraph 33.12 of the Council's Constitution requires that all Cabinet Member decisions must be published on the Council's website for five clear days before the decision is taken. Any representations received during this period must be considered by the decision-maker before the decision is taken.

7. Carbon Impact

- 7.1 There is no carbon impact from this decision which relates to the grant of a new lease.

8. Equalities Implications

8.1 There are no equalities implications from this decision which relates to the grant of a new lease.

9. Consultation

9.1 A briefing note notifying Ward Councillors was circulated on 16 January 2024.

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:

Davina Dawkins, ddawkins@westminster.gov.uk

APPENDICES

Appendix A – Summary of Lease Terms (Restricted under paragraph 3, schedule 12A Part 1 of Local Government Act 1972)

BACKGROUND PAPERS

Cabinet Member Report for Beachcroft Care Home Direct Award, dated 29 December 2023 and made by the Cabinet Member for Adult Social Care, Public Health and Voluntary Sector.

For completion by the **Cabinet Member for Finance and Council Reform**

Declaration of Interest

I have no interest to declare in respect of this report

Signed: _____ Date: 11 April 2024

NAME: Councillor David Boothroyd

State nature of interest if any:

(N.B: If you have an interest, you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled **Grant of New Lease for Beachcroft House** and reject any alternative options which are referred to but not recommended.

Signed: _____

Cabinet Member for Finance and Council Reform

Date: 11 April 2024

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, City Treasurer and, if there are resources implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.