

ADULTS AND COMMUNITIES SCRUTINY COMMITTEE

MONDAY 28 OCTOBER 2019
7.00 PM

Bourges/Viersen Room - Town Hall

AGENDA

Page No

1. **Apologies for Absence**
2. **Declarations of Interest and Whipping Declarations**
At this point Members must declare whether they have a disclosable pecuniary interest, or other interest, in any of the items on the agenda, unless it is already entered in the register of members' interests or is a "pending notification " that has been disclosed to the Solicitor to the Council. Members must also declare if they are subject to their party group whip in relation to any items under consideration.
3. **Request to Call-In Executive Decision - Authority for the acquisition of housing for temporary accommodation - OCT19/CMDN/45** 3 - 10
4. **Response To Call-In of Executive Decision - Authority for the acquisition of housing For temporary accommodation - OCT19/CMDN/45** 11 - 40

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Committee Members:

Councillors: N Simons (Chairman), K. Aitken, R. Bisby, S. Bond, R. Brown (Vice Chairman),
D. Fower, J R Fox, J. Howard, J. Howell, M. Jamil, and I. Yasin
Co-opted Member: Parish Councillor N. Boyce

Substitutes: Councillors: A Bond, L. Coles, N. Day and H. Skibsted

Further information about this meeting can be obtained from David Beauchamp on telephone
01733 384628 or by email – david.beauchamp@peterborough.gov.uk

ADULTS AND COMMUNITIES SCRUTINY COMMITTEE	AGENDA ITEM No. 3
28 OCTOBER 2019	PUBLIC REPORT

Report of:	Director of Law and Governance	
Cabinet Member(s) responsible:	Cabinet Member for Housing, Culture and Recreation Cabinet Member for Strategic Planning and Commercial Strategy and Investments	
Contact Officer(s):	Paulina Ford, Senior Democratic Services Officer David Beauchamp, Democratic Services Officer	Tel. 01733 452508 Tel. 01733 384628

REQUEST TO CALL IN AN EXECUTIVE DECISION - AUTHORITY FOR THE ACQUISITION OF HOUSING FOR TEMPORARY ACCOMODATION – OCT19/CMDN/45

R E C O M M E N D A T I O N S	
FROM: Director of Law and Governance	Deadline date: N/A
<p>It is recommended that the Adults and Communities Scrutiny Committee:</p> <ol style="list-style-type: none"> 1. Consider a request to call-in a decision taken by the Cabinet Member for Housing, Culture and Recreation and the Cabinet Member for Strategic Planning and Commercial Strategy and Investments. 	

1. ORIGIN OF REPORT

1.1 The report is presented to the Committee on behalf of the Director of Law and Governance.

2. PURPOSE AND REASON FOR REPORT

2.1 The report is being presented to the Committee so that they may consider a request to call-in a decision taken by the Cabinet Member for Housing, Culture and Recreation and the Cabinet member for Strategic Planning and Commercial Strategy and Investments in respect of the Executive Decision: Authority for the acquisition of housing for temporary accommodation - OCT19/CMDN/45.

2.2 This report is for the Adults and Communities Scrutiny Committee to consider under its Terms of Reference No. Part 3, Section 4 - Overview and Scrutiny Functions, paragraph 3, Scrutiny, sub paragraph 3.3 Hold the Executive to account for the discharge of functions in the following ways:

- (f) By exercising the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive or key decisions which have been delegated to an officer;

3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/A
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4. BACKGROUND AND KEY ISSUES

4.1 On the 10 October 2019, the Cabinet Member for Housing, Culture and Recreation and the Cabinet Member for Strategic Planning, Commercial Strategy and Investments made an Executive Decision relating to: Authority for the acquisition of housing for temporary accommodation - OCT19/CMDN/45. In accordance with the Constitution this decision was published on 10 October 2019.

4.2 On 15 October 2019 Councillor Mohammed Jamil and Councillor Ikra Yasin submitted a request to call-in the decision on the following grounds:

Criteria 3. Decision does not follow principles of good decision-making set out in Part 2, Article 11 (Decision Making) of the Council's Constitution, specifically that the decision maker did not:

(f) Follow procedures correctly and be fair

A copy of the request to call-in is attached at Appendix 1 and a copy of the decision notice is attached at Appendix 2.

4.3 After considering the request to call-in and all relevant advice, the Committee may either:

- (a) refer it back to the decision-making person or body for reconsideration, normally in time for its next scheduled meeting, setting out in writing the nature of its concerns and any alternative recommendations;
- (b) if it considers that the decision is outside the Council's Budget and Policy Framework, refer the matter to the Council after seeking the advice of the Monitoring Officer and/or Chief Financial Officer; or
- (c) decide to take no further action, in which case the original executive decision will be effective immediately.

4.4 If referred back to the decision taker they shall then reconsider, amending the decision or not, before adopting a final decision. Once a decision has been reconsidered by the decision taker it may not be the subject of further call-in.

5. CONSULTATION

5.1 Please refer to agenda item 4. Response to Call-in of Executive Decision, Appendix 1 for details of any consultation that has taken place with regard to the Executive Decision taken.

6. ANTICIPATED OUTCOMES OR IMPACT

6.1 Possible outcomes: The Committee may either:

- a) refer it back to the decision making person or body for reconsideration, normally in time for its next scheduled meeting, setting out in writing the nature of its concerns and any alternative recommendations;
- b) if it considers that the decision is outside the Council's Budget and Policy Framework, refer the matter to the Council after seeking the advice of the Monitoring Officer and/or Chief Financial Officer; or

- c) decide to take no further action, in which case the original executive decision will be effective immediately.

7. REASON FOR THE RECOMMENDATION

- 7.1 Call-in is the exercise of a Scrutiny Committee's statutory powers under section 9F(2) and 9F (4) of the Local Government Act 2000 (as amended by the Localism Act 2011) to review an Executive Key Decision before it is implemented. Where a decision is called-in and the Scrutiny Committee decides to refer it back to the decision maker for reconsideration, it cannot be implemented until the call-in process is complete.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 Please refer to Appendix 2 of the report for details of alternative options considered with regard to the Executive Decision taken.

9. IMPLICATIONS

Financial Implications

- 9.1 Please refer to agenda item 4. Response to Call-in of Executive Decision, Appendix 1 for details of any financial implications with regard to the Executive Decision taken.

Legal Implications

- 9.2 Please refer to agenda item 4. Response to Call-in of Executive Decision, Appendix 1 for details of any legal implications with regard to the Executive Decision taken.

Equalities Implications

- 9.3 Please refer to agenda item 4. Response to Call-in of Executive Decision, Appendix 1 for details of any equalities implications with regard to the Executive Decision taken.

Rural Implications

- 9.4 *N/A*

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 10.1 Executive Decision Notice: Authority for the acquisition of housing for temporary accommodation - OCT19/CMDN/45.

11. APPENDICES

- 11.1 Appendix 1 – Request to Call-In Decision
Appendix 2 - Copy of Decision Notice: Executive Decision: Authority for the acquisition of housing for temporary accommodation - OCT19/CMDN/45.

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CALL-IN REQUEST FORM

This form must be completed and signed by any TWO members of the relevant Scrutiny Committee and MUST be returned to the *Proper Officer within 3 working days of the decision being published (*not including the day of publication*). Please telephone the Proper Officer to make them aware that the Call-In form is on its way.

**Please note that the Proper Officer can be any of the following Senior Democratic Services Officers: Paulina Ford, Tel: 452508, Daniel Kalley, Tel: 01733 296334, Jane Webb, Tel: 01733 452281 or Phillipa Turvey, Democratic and Constitutional Services Manager, Tel: 01733 452460 The Call-In Request will only be valid if it has been received in person by any of the above people within the 3 working day deadline. The form may be emailed or hand delivered. If sent in the post you must call the Proper Officer to advise that it has been posted and it will need to be received by the Proper Officer within the 3 working day deadline.*

Decision taker:	Cabinet Member for Housing Culture and Recreation and the Cabinet Member for Strategic Planning and Commercial Strategy and Investments
Date of publication of decision:	10 October 23019
Title of Decision Called in :	Authority for the acquisition of housing for temporary accommodation - OCT19/CMDN/45
Date Decision Called in:	15 October 2019

	REASONS FOR CALL-IN	Tick which reason applies
1.	Decision is contrary to the Budget and Policy Framework rules set out in Part 4 Section 6 of the Council's Constitution? <i>(If this is the case it will require a reference to Council by a Scrutiny Committee on a report from the Monitoring Officer or Chief Finance Officer)</i>	
2.	Decision is Key but it has not been dealt with in accordance with the Council's Constitution.	
3.	Decision does not follow principles of good decision-making set out in Part 2, Article 11 (Decision Making) of the Council's Constitution.	↓
If reason 3, please tick which specific element of Article 11 the decision maker has not followed, did he or she not:		
(a)	Realistically consider all alternatives and, where reasonably possible, consider the views of the public.	
(b)	Understand and keep to the legal requirements regulating their power to make decisions	
(c)	Take account of all relevant matters, both in general and specific, and ignore any irrelevant matters.	
(d)	Act for a proper purpose and in the interests of the public.	
(e)	Keep to the rules relating to local government finance.	
(f)	Follow procedures correctly and be fair.	↓
(g)	Make sure they are properly authorised to make the decisions.	
(h)	Be responsible for their decisions and be prepared to give reasons for them.	
(i)	Take appropriate professional advice from officers.	

Detailed Reason(s) for Call-in. Please detail the reasons below why the Scrutiny Committee should review or scrutinise the decision and consider referring it back to the Executive, please be specific in how it applies to the reason for call-in as identified on page 1 of the form. E.g. if you have ticked reason 1 on the form then please identify which major policy is affected and how/why or which area of the budget framework.

1. Report has not been shared with Group Leaders, this is a lack of transparency.
2. Paying well above the valuation of the valuation.
3. Not considered value for money as paying above the market value.
4. Should have gone through the scrutiny pane.

Details of Alternative Course of Action or Recommendations you wish to propose. Please specify what course of action you are proposing should be taken and any recommendations that you are proposing should be considered by the Scrutiny Committee.

1. Negotiate fair market price.
2. Take decision through scrutiny committee.
3. Process of purchase should have been open and transparent.
4. Security of tenure through Landlord Tenant Act 1954 to safeguard the councils interest and the tenants.

	Name (please print)	Member of Which Scrutiny Committee	Signature	Date
1.	Cllr Mohammed Jamil	Adults and Communities	Cllr Jamil	15/10/19
2.	Cllr Ikra Yasin	Adults and Communities	Cllr Yasin	15/10/19

Decision details

Authority for the acquisition of housing for temporary accommodation - OCT19/CMDN/45

- [Find out more about this issue](#)

Decision Maker: Cabinet Member for Housing, Culture and Recreation

Decision status: Item Called In

Is Key decision?: Yes

Is subject to call in?: Yes

Purpose:

There is an exempt annex attached to this report that is NOT FOR PUBLICATION by reason of paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972 because it contains commercially sensitive information. The public interest test has been applied to the information contained within this exempt annex and it is considered that the need to retain the information as exempt outweighs the public interest in disclosing it. To release the business case for the acquisition with financial assessment would jeopardise negotiations which are ongoing.

The Cabinet Member for Housing Culture and Recreation and the Cabinet Member for Strategic Planning and Commercial Strategy and Investments:

1. Approved the freehold purchase of St Michael's Gate at £13.38m – consisting of 72 properties used for temporary accommodation.
2. Approved the associated professional fees.
3. Approved the capital expenditure for upgrading the windows.

Reasons for the decision:

Removing a major risk of households being made homeless in the future.

The acquisition protects the council from future rent increases and allows outgoings to be reduced.

The opportunity to acquire housing which can be held within the council's Housing Revenue Account. Once the temporary housing situation improves these properties can be used for social rented accommodation.

Alternative options considered:

Option 1- Renew the lease for St Michael's Gate for a period of 5 years

This option has been discounted. Leasing would only be appropriate if the council wanted to retain the property in the short term – say for the next five years. As this is a longer term hold, purchasing the property will be more economic.

Option 2 – Acquire the freehold of St Michael's Gate (recommended option)

Buying in the freehold offers benefits in terms of annual run rate savings for the council.

It protects the council from further rental increases and gives the council complete control of a block of property which offers practical and economic advantages in terms of management.

Option 3 – Renew the lease for a period of 3-5 years during which the council acquires additional freehold properties (of an equivalent value) to be used for TA

There will be dual costs payable as the council continues to lease the existing properties and finds more property to purchase. It will not be possible to buy 72 properties in one go and so those dual costs would continue for an extended period of time until the council was ready to move the tenants from St Michael's Gate into newly acquired properties. As finding 72 properties together would prove difficult, it is more likely the council would obtain 72 properties spread out over the authority. Whilst the cost of leasing these would be lower, the management over a disparate area would be

more difficult and the savings would likely be eroded by higher fees.

Interests and Nature of Interests Declared:

None.

Background Documents:

None.

Publication date: 10/10/2019

Date of decision: 10/10/2019

Issue status: The decision is currently being reconsidered

This decision has been called in by:

- [Councillor Mohammed Jamil](#) who writes Reasons for Call-in. 3. Decision does not follow principles of good decision-making set out in Part 2, Article 11 (Decision Making) of the Council's Constitution: 3 (f) Follow procedures correctly and be fair."
- [Councillor Ikra Yasin](#) who writes Reasons for Call-in. 3. Decision does not follow principles of good decision-making set out in Part 2, Article 11 (Decision Making) of the Council's Constitution: 3 (f) Follow procedures correctly and be fair."

Accompanying Documents:

- [St Michael's Gate CMDN - PUB](#)  PDF 246 KB

ADULTS AND COMMUNITIES SCRUTINY COMMITTEE	AGENDA ITEM No. 4
28 OCTOBER 2019	PUBLIC REPORT

Report of:	Peter Carpenter, Acting Corporate Director, Resources	
Cabinet Member(s) responsible:	Councillor Steve Allen, Cabinet Member for Housing, Culture and Recreation collaboration with Councillor Peter Hiller, Cabinet Member for Strategic Planning and Commercial Strategy and Investments in consultation with Councillor John Holdich, Leader of the Council.	
Contact Officer(s):	Peter Carpenter, Acting Corporate Director, Resources	Tel. 07920 160122

RESPONSE TO CALL-IN OF EXECUTIVE DECISION - AUTHORITY FOR THE ACQUISITION OF HOUSING FOR TEMPORARY ACCOMMODATION - OCT19/CMDN/45

R E C O M M E N D A T I O N S	
FROM: Cabinet Member for Housing Culture and Recreation and Cabinet Member for Strategic Planning and Commercial Strategy and Investments	Deadline date: N/A
<p>It is recommended that Adults and Communities Scrutiny Committee:</p> <ol style="list-style-type: none"> 1. Considers the response to the call in of the Acquisition of Housing for Temporary Accommodation Report which sets out how Member concerns have been met and also contains previously exempt financial and condition survey information. 2. After considering the evidence presented to the meeting, <ol style="list-style-type: none"> i) Decide to take no further action in relation to the Cabinet Member Decision Notice for the purchase of the temporary accommodation, in which case the original executive decision will be effective immediately; or, ii) Decide to refer the decision back to the Cabinet Member for reconsideration, setting out in writing the nature of its concerns and any alternative recommendations. The Cabinet Member must then reconsider the matter within 5 working days, taking into account the concerns of the Scrutiny Committee, before making a final decision. 	

1. ORIGIN OF REPORT

1.1 This report follows a call-in request of the Cabinet Member Decision Notice published on 10 October 2019 titled "Authority for the acquisition of housing for temporary accommodation".

2. PURPOSE AND REASON FOR REPORT

2.1 The report is being presented following a call-in request by Councillors Jamil and Yasin.

This report sets out the response to the call-in of the Acquisition of Housing for Temporary

Accommodation Report and sets out how Member concerns have been met. It also contains previously exempt financial and condition survey information.

The call-in was made on the basis of concerns that the decision does not follow principles of good decision-making set out in Part 2, Article 11 (Decision Making) of the Council's Constitution, specifically:

f) that it did not follow procedures correctly and be fair.

The reasons given for call in include:

1. The report has not been shared with Group Leaders, this is a lack of transparency.
2. The Council are paying well above the valuation of the valuation report.
3. Not considered value for money as paying above the market value.
4. Should have gone through the scrutiny panel.

In addition, it recommends that the Council

1. Negotiate fair market price.
2. Take decision through scrutiny committee.
3. Process of purchase should have been open and transparent.
4. Security of tenure through Landlord Tenant Act 1954 to safeguard the Council's interest and the tenants.

The Council's Scrutiny Committee Procedure Rules state:

"10.16 Having considered the call-in and the reasons given, the relevant Committee may either:

(a) refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns and any alternative recommendations. This will normally be considered at the decision making body's next schedule meeting;

(b) if it considers that the decision is outside the Council's Budget and Policy Framework, refer the matter to the Council after seeking the advice of the Monitoring Officer and/or Chief Financial Officer; or

(c) decide to take no further action, in which case the original executive decision will be effective immediately.

10.17 If referred back to the decision taker they will then reconsider whether to amend the decision before adopting a final decision. Once a decision has been reconsidered by the decision taker it may not be the subject of further call-in.

10.18 Where the decision was taken by the Executive a meeting will be held to reconsider the decision within ten working days of the referral, or soon after with the agreement of the Leader. Where the decision was made by an individual, the individual will reconsider within five working days of the referral.

10.19 If a decision relates to an executive function only the Cabinet can ultimately decide the matter, as long as it is in accordance with the Council's Budget and Policy Framework."

2.2 This report is for the Adults and Communities Scrutiny Committee to consider under its Terms of Reference No. Part 3, Section 4 - Overview and Scrutiny Functions, paragraph 3, Scrutiny, sub paragraph 3.3 Hold the Executive to account for the discharge of functions in the following ways:

- (f) By exercising the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive or key decisions which have been delegated to an officer;

2.3 This report links to the Council priority of the provision of Temporary Accommodation

3. **TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	No	If yes, date for Cabinet meeting	N/a
Date for relevant Council meeting if applicable	n/a	Date for submission to Government Dept. (<i>Please specify which Government Dept.</i>)	N/a

4. **BACKGROUND AND KEY ISSUES**

4.1 Peterborough, as with most other towns and cities, continues to face significant increases in demand from households who are at risk of becoming homeless. In 2018/19, the numbers of households presenting to the council as homeless had increased by 56% compared to the previous year (851 households). This level of demand has continued into 2019/20.

At time of writing, there are 415 households in temporary accommodation in Peterborough, accommodated as follows:

- St Michael's Gate – 81
- Elizabeth Court – 51
- Council-owned properties – 60
- Leased properties – 50
- Hostels - 75
- Bed and breakfast – 98

The supply of permanent affordable accommodation has not kept pace with this rising demand, albeit that the council has taken a number of proactive measures to address this and continues to do so. The increased demand coupled with insufficient availability of permanent housing, means that our reliance on self-contained temporary accommodation, such as that at St Michael's Gate, is essential.

Although we continue to build our supply of temporary accommodation, it remains exceptionally limited, with most of the options listed above at maximum occupancy. Despite growing demand, since December 2018, all homeless households have been accommodated in Peterborough; this is vital to maintain a connection with Peterborough, to ensure continuity of education and employment, and to ensure access to vital services is not broken. However, available space is exceptionally limited.

St Michael's Gate has provided essential temporary accommodation at a time of significant need. As can be seen by the demand data above, this need is likely to continue for some time, and securing these assets forms a vital part of our approach to addressing demand and keeping homeless households in Peterborough. St Michael's Gate has also offered the opportunity to manage the cases of a high number of homeless households in one location, bringing benefits to the housing team and building a network of residents facing similar challenges. On average, households remain at St Michael's Gate for between 9 and 12 months, helping to create community and continuity. Since 2016, St Michael's Gate has provided vital temporary accommodation to 382 homeless families

Purchasing the properties guarantees their availability for our own households for the long term. Whilst leasing would have provided a short term guarantee, the financial assessment clearly shows that purchase provides better value to the council, and a lease, by its nature, is time limited, meaning that at the end of the term around 80 households would be made homeless placing

significant demand on an already stretched system.

As has been mentioned, work is continuing at pace to increase the supply of accommodation to ease the requirement for temporary housing. As this number grows, the demand for temporary housing will reduce, meaning that we will be in a position to convert St Michael's Gate to much needed permanent housing for those on the housing register.

As was the case when the council first entered into a lease to use the properties at St Michael's Gate, it is very likely that, if this council did not lease or purchase these properties, they would be purchased by another council. We are aware already of councils purchasing housing in Peterborough in order to accommodate homeless households, and there is relatively frequent use of some Peterborough B&B rooms for out-of-area households. Up to 83 households being made homeless in the current climate would present a huge challenge to the council and would be significantly disruptive for the affected households. In addition, meeting the needs of hundreds of out-of-area households being accommodated in Peterborough (as they will inevitably access local public services) will place a significant financial and demand burden on the public sector system.

4.2 The following bullets outline how the Council was contacted about the possible purchase of the building which led to an offer of £13.4m being made to purchase the site:

- Stef & Philips initially contacted the Council to discuss the lease renewal as the current lease expires on 01 November 2019.
- Stef & Philips's lease renewal proposal was to increase the existing rent from £966k to £1,032 million plus additional annual charges of £38k.
- At the same time Stef & Philips suggested the whole site would be available to purchase at £14m (*not £13.8m as suggested in the BSM report*).
- After some negotiation NPS, acting for the Council, agreed a purchase at £13.38m subject to survey and contract.

Barker Storey Matthews were approached to independently value the potential purchase of the site. This valuation is attached as Appendix A.

- The valuation approach to this type of asset is usually to capitalise the rent.
- Barker Storey Matthews point out that the rent is far higher than the market rent; that is what is driving the high asset valuation by the owners. If it was a market rent then (assuming a 10% discount for quantum) Stef & Philips could only justify a maximum value of £9.49m
- The alternative to purchasing the property is for the Council to continue to pay a rent which is far in excess of the market value; a purchase will remove the prospects of further rental increases.

Threat of eviction

NPS or the Council are not aware whether other buyers may have been approached regarding a purchase. However, if the Council did not make an offer there is the likelihood that another Social Landlord or Council would have bid for the building.

Given the lease is outside of the provisions of the Landlord & Tenant 1954 Act once the lease expires on 1st November the landlord can evict without notice.

4.3

A summary of the costs of the alternative schemes is included within Section 9

If the Council decided to continue to lease the properties from Steph & Philips for a further 5 years the net cost to the Council will be over £3 million. While this is cheaper than placing those families currently living in the properties in St Michael's Gate into B&B accommodation, the net cost to the Council for the purchase of the properties over the same period would be lower, at a cost of

£1.3 million.

As referred to above, at the end of the lease the properties will be subject to further rent review, and the Council may not be able to afford to continue leasing the properties, especially if another Council decides it is prepared to pay more for the properties. However, if the properties are purchased, they will be in the ownership of the Council and any property value appreciation will be to the Council's advantage.

As agreed at Cabinet on 23 September an application has been made to the Secretary of State to open an HRA account. Assuming this project progresses as envisaged these properties will be able to be transferred to that Account and so the funding of this purchase from that point will be able to benefit from the lower cost of borrowing available.

- 4.4 Sections 4.1 to 4.3 set out the process that the Council followed in the lead up to the Cabinet Member Report being issued. Further to this, Group Leaders were briefed on the matter on the 7th October. At this meeting the issue of the price being more than what was set out in the valuation report was raised and the Interim Director of Resources made it clear that, in reality, the purchase is worth far more to the Council than the valuation due to the factors raised in Sections 4.1 to 4.3 above.

In addition, as part of this Call-In process, given where the Council is now in the negotiation process, both the initial Exempt Appendix and the Valuation Report can be made public and are attached as Appendices A and B.

The Valuation Reports were circulated to Group Leaders on Tuesday 15th October as a confidential item.

5. CONSULTATION

- 5.1 PCC's Housing Needs and Financial departments have both been consulted in the drafting of this report

Group Leaders have been consulted

6. ANTICIPATED OUTCOMES OR IMPACT

- 6.1 The information contained in this report responds to the main points of the Call-In report namely:

The report has not been shared with Group Leaders, this is a lack of transparency. The information in the report was discussed with Group Leaders at the meeting on the 7th October. The valuation report was shared with Group Leaders on the 15th October, before the Call-In Motion was submitted and as part of this report will be made public.

The Council are paying well above the valuation of the valuation report and is not considered value for money as paying above the market value. This report sets out in Sections 4.1 to 4.4 that the purchase reflects the value to the buyer, in this case the Council.

Should have gone through the scrutiny panel. This is a normal property transaction and has been progressed as per Council regulations.

7. REASON FOR THE RECOMMENDATION

- 7.1 That the Council has followed all its processes and has undertaken a transaction that is value for

money. As such, the Cabinet Member can now approve the CMDN.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 As part of the original CMDN a number of options including purchasing and continuing to lease were considered.

9. IMPLICATIONS

Financial Implications

- 9.1 The summary of Costs over five years for the Alternative Options is contained in the table below. Further information is contained in Appendix B – which was the original exempt appendix to the Report.

It shows quite clearly, as did the original CMDN, that the decision to purchase was significantly better financially for the Council than continuing to lease – especially given that lease costs would have increased.

	Comparison of Alternatives for St Michael's Gate			
	Present Leasing Costs	Continue to lease for 5 years	Purchase within General Fund	Purchase within HRA
Net cost per annum	537	790	294	127
Net cost over 5 years	2,477	3,170	1,304	430

NOTE:

This table reflects the Council's revised borrowing costs from PWLB **which were raised by 1% for all borrowing from 9 October 2019, after the CMDN was published.** Therefore, the Exempt Annex reflects the cost of borrowing to the Council at that time rather than the increased costs which are reflected above.

The above table demonstrates that the purchase of the properties at St Michael's Gate will be cheaper than continuing to lease the properties from Steph & Philips.

Within the Council's accounts the purchase of the properties will be initially funded through the Invest to Save Budget but will be able to be transferred to the HRA on delivery of the HRA business case. The criteria for using the Invest to Save budget will be satisfied by the savings made by ensuring the families currently accommodated within St Michael's Gate are not made homeless when the current lease expires. The costs of accommodating these families would be over £1.2m per annum. The Council will have security over its investment as it will retain the properties purchased and will benefit from any capital appreciation in the value of the properties.

Legal Implications

- 9.2 The Council can rely upon its investment powers in section 12 Local Government Act 2003 and upon section 120, Local Government Act 1972 to acquire these properties. The Council has a duty under the Housing Act 1996 (Part VII), as amended by the Homelessness Act 2002 to ensure that accommodation is made available for homeless applicants who are owed a full housing duty by the Council.

Equalities Implications

- 9.3 N/A

Rural Implications

9.4 N/A

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

10.1 N/A

11. APPENDICES

11.1 Appendix 1 – The Valuation Report

Appendix 2 - The Original exempt report

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Our ref: MAH/ARA/805.113135
Email: mh@bsm.uk.com
Direct dial: 01733 556490

30 August 2019

For the attention of T. Hill Esq
Strategic Asset Manager
NPS Peterborough
Peterscourt
City Road
Peterborough
PE1 1SA

We are part of **Eddisons**

The Lawns
33 Thorpe Road
Peterborough
PE3 6AB
Tel 01733 897 722

Dear Tris

Advice – St Michael’s Gate, Parnwell, Peterborough

We have now had the opportunity to inspect a number of the properties at the above development, read lease documentation and undertake necessary enquiries in order to provide you with our preliminary advice in relation to a proposed lease renewal or potential acquisition.

We now report as follows:

Background

The council currently leases the majority of St Michael’s Gate (72 of 74 dwellings) from Stef Philips Limited under a lease which is due to expire 1st November 2019 and has been provided with basic lease renewal terms as well as an indicative price for the council to acquire the freehold interest. We have been instructed to provide advice in relation to the renewal terms as well as the proposed purchase price.

Location

The development is located on the south side of Keys Park which is accessed from Parnwell Way in the Parnwell area of the city approximately 4 miles north east of the city centre. The immediate surrounding area is residential in nature with the Finchfield bungalow development located to the north, Keys Park Caravan Park to the west and a combination of semi detached, detached and terraced housing to the south. A substantial Tesco distribution centre is located to the east of Parnwell Way together with the Kingsgate Conference Centre. The nearest facilities are located at Parnwell local centre to the south which includes a school, convenience store, hairdressers, Chinese takeaway and doctors surgery.

Description

The development comprises a scheme of 74 dwellings (no 13 St Michaels Gate) arranged around a single spine road with a number of spurs leading to block paviour parking areas. The development generally provides mature trees and low level bushes to landscaped areas with boundaries of individual dwellings defined in timber fencing. A tarmac surfaced access road and footpaths lead to the block paved spur roads and communal car parking areas although with some providing tarmacked bays.

Offices at:

Peterborough 01733 897722 • Peterborough (Accounts/Management) 01480 415722 • Peterborough (Building Surveying) 01733 233445
Huntingdon 01480 451578 • Cambridge 01223 467155 • Bury St Edmunds 01284 702655

The development principally comprises 59 no. 2 storey terraced houses together with 3 apartment blocks providing 15 no. 1 and 2 bedroom flats. Of this however 4 of the houses provide HMO accommodation totalling 21 letting rooms. It appears that the Council do not currently lease nos 12 and 23. We assume therefore that these properties are not included in the proposed new lease or proposed acquisition and have had regard to the remaining 72 dwellings.

We understand that each of the dwellings are of timber framed construction with brick elevations under pitched tiled roofs with a large proportion of the properties providing Dorma and Velux windows. Old style timber framed double glazed windows are provided throughout together with plastic rainwater goods. At the time of our inspection the landlord was in the process of installing gas fired central heating served by combi boilers to each of the dwellings and it is anticipated that this exercise will be completed in a matter of weeks with the exception of the individual flats and the HMO accommodation. At the present however a number of the properties continue to provide electric night storage heating.

Overall the quality of the accommodation ranges from modest to good quality with some of the properties having been refurbished to include modern kitchens and bathrooms. We understand however that this is an ongoing programme and is not the case to each and every property.

During the course of our inspection we were able to inspect one of each house type with the exception of the full detailed accommodation within the HMOs or some slightly larger 2/3 bedroom properties (referred to as Type 5 below).

We were able to gain access to numbers 19, 28, 31 (part only however as this is an HMO), 38, 40, 41, 44 and 56 St Michael's Gate.

We have been advised by the landlord that these are the principal house types with the following accommodation summary for each house type:

Type 1 – comprising 1 bedroom flats with access from shared stairwells leading to an entrance lobby with a storage cupboard housing hot water cylinder together with bathroom, kitchen, lounge and a double bedroom. We estimate the gross internal area of this house type to be 32.89 sq m (354 sq ft).

This type is understood to comprise nos 3, 4, 43, 44, 73 and 74 together with numbers 5, 45 and 75 which are at second floor level and are marginally.

Type 2- comprising 2 bedroom flats again accessed from communal stairwells although some of the ground floor flats have independent access from the garden areas but provide an entrance lobby with storage cupboard housing hot water cylinder, bathroom, 2 double bedrooms and a lounge kitchen which is of a modest size. We estimate the gross internal area of this house type to be 38.14 sq m (411 sq ft).

This type is understood to comprise nos 1, 2, 41, 42, 71 and 72.

Type 3 – 2/3 bedroom properties comprising entrance hallway with good sized lounge, kitchen and a further reception room or bedroom at ground floor level with 1 double bedroom and a single bedroom at first floor together with a family bathroom.

This type is understood to comprise nos 56, 57, 64 and 67.

Type 4 – 2/3 bedroom accommodation of a similar size to type 4 but providing 2/3 bedroom accommodation. We were unable to gain access to this particular house type during the course of our inspection.

This type is understood to comprise nos 20, 21, 22, 27, 33, 34, 35, 36, 59, 60, 65 and 66.

Type 5 – 3 bedroom houses comprising entrance lobby with storage cupboard, lounge, open plan kitchen/diner with pantry cupboard and a further room which could be utilised as a bedroom. At first floor level the accommodation includes 2 good sized double bedrooms together with a bathroom.

This type is understood to comprise nos 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 24, 25, 26, 39, 40, 46, 47, 48, 49, 50, 51, 52, 53, 58, 61, 62, 63, 68, 69 and 70.

Type 6 – 3/4 bedroom properties providing entrance lobby with ground floor cloakroom together with 2 storage cupboards, lounge and open plan kitchen/diner with a bedroom/study provided at ground floor level. At first floor level are 3 further bedrooms together with a bathroom.

This type is understood to comprise nos 28, 54, 55, 18 and 19.

Type 7 - 4/5 bedroom accommodation providing entrance hallway with ground floor shower room, bedroom, lounge and kitchen/diner although in one of the properties a wall has been constructed between the dining room and kitchen meaning that this could provide a further bedroom if required. At first floor level the accommodation comprises 3 further bedrooms together with a bathroom and airing cupboard.

This type is understood to comprise nos 37 and 38.

Type 8 – HMO accommodation. We were only able to gain access to 1 letting room and a communal kitchen at the time of our inspection however the letting room inspected provided open plan bed/sitting room with modern kitchen units with an en-suite shower room. The kitchen located at first floor provides standard wall and base mounted cupboards, stainless steel single drainer sink unit, oven, hob and extractor. We estimate the gross internal area of a typical letting room to be 14.59 sq m with an additional area of 2.5 sq m for the en-suite. We assume that this is a standard room size.

This type is understood to comprise nos 29, 30, 31 and 32.

Energy Performance Certificates

From enquiries made of www.epcregister.com we have identified EPCs for each of the properties which generally range between C (71) and E (53) with all of the EPCs having been registered on 30 April 2019 with the exception of 12 St Michael's Gate which was completed in August 2015.

The only further exception to these ratings however are the HMO properties (29, 30, 31 and 32) which are assessed at either F (29) or F (30). This would therefore mean that these properties would not be capable of being let in the open market however it is our understanding that a domestic property will not be within the scope of the minimum energy efficiency standards if it is a low cost rental accommodation within Section 69 of the Housing and Regeneration Act 2008 and the landlord is a private registered provider of social housing or a social landlord under Chapter 1 or Part 1 of the Housing Act 1996. Solicitors advice would however be required to confirm if the landlord can in fact let these properties as part of a wider lease agreement to the council.

A private landlord cannot however let the rooms in these properties on ASTs without improvements.

The landlord is currently undertaking improvement works to the properties installing gas fired central heating to the two storey dwellings with apartment blocks due to be completed thereafter and a separate arrangement put in place in relation to the HMO accommodation. It may be that at the point of grant of a new lease or an acquisition by the council that all properties have had the central heating installed which may have a positive impact on the EPC ratings for numbers 29-32.

Lease Agreement

We have been provided with a copy lease dated 2 November 2016 the principal heads of terms and covenants of which are as follows:

Heads of Terms	
Demise	Numbers 1 – 75 St Michael's Gate (see comments below)
Landlord	Stef Philips Limited.
Tenant	Peterborough City Council.
Term	2 November 2016 to 1 November 2019.
Security of Tenure	Outside of the Landlord and Tenant Act 1954 Security of Tenure Provisions.

Break Clause	<p>Tenant break option at any time before 9 December 2016 by serving notice no later than 30 November 2016 or on the 2nd anniversary of the term on serving one month's prior notice.</p> <p>A valid break is subject to the tenant providing vacant possession, full payment of all rent and VAT and compliance with the break notice requirements. The tenant is only able to break the lease on the whole of the demise.</p>
Tenant Covenants	
Rent	To pay rent.
Repair	To pay the landlord the cost of any malicious damage where the cost exceeds £250 plus VAT.
Use	To provide accommodation to the tenant to enable it to discharge duties in relation to accommodation to include but not limited to homelessness.
Rates	There is no reference to the tenant having any obligation in relation to council tax with the exception of a liability to pay council tax in relation to the HMO accommodation. The landlord is liable for utilities in relation to the HMO accommodation but not in relation to the other self-contained dwellings to include the 2 storey houses and flats.
Alienation	Not to assign or charge whole or part. Not to sublet the whole. Not to sublet part other than by licence for interim accommodation under Section 188 of the Housing Act 1996.
Alterations	No alterations or additions without landlord's consent (not to be unreasonably withheld).

Insurance	There is no reference to the tenant having any liability in this respect.
Service charge	There is no reference to the tenant having any liability in this respect.
Landlord Covenants	
Quiet enjoyment	To allow the tenant to have quiet enjoyment.
Insurance	To effect buildings insurance during the term.
Repairs	To keep in good repair to a minimum standard identified in schedule 7 and to renew and rebuild where necessary.
Services	To pay rates and taxes where they are the responsibility of the landlord and to pay utilities where they are of the responsibility of the landlord (see above).

The initial rent payable under the lease was £72,817.50 however this was for a small number of properties initially available and there is a schedule contained at part 2 of schedule 4 which identifies the specific rents payable in relation to each of the properties. We calculate this total rent would equate to £965,905 per annum although we have been advised by the council that the passing rent is in the region of £960,000 and in correspondence seen from the landlord this refers to a rent of £900,000.

There are essentially 5 rental levels payable under the schedule as follows:

1 bedroom flats and letting rooms within HMO accommodation - £7,117.50 per annum (£593.13 pcm).

2 bedroom flats - £8,303.75 per annum (£691.98 pcm).

2 and 3 bedroom properties - £12,775 per annum (£1,064.58 pcm).

Larger 3/4 bedroom properties - £14,600 per annum (£1,216.67 pcm).

4/5 bedroom properties - £18,250 per annum (£1,520.83 pcm).

Based on the schedule supplied by the Council there are two properties which are not yet included in the lease which are nos 12 and 23 and we assume that these are not yet owned by the landlord and so are not included in the proposed new lease or the proposed acquisition.

Commentary on Lease

It appears therefore that the current lease places an obligation on the landlord to fully maintain the properties with the exception of instances where malicious damage is caused. The tenant is liable for all council tax and utilities with the exception of the HMO accommodation where the landlord pays utilities.

There is no reference to the tenant reimbursing the landlord in respect of buildings insurance or in relation to any service charge costs in the landlord meeting their obligations in respect of repairs and maintenance.

The principal issue under the lease is the lack of security of tenure granted meaning that the council will have no automatic rights of renewal at lease expiry in under 3 months time and this does therefore compromise the council's negotiation position. Further comment is made later in this report.

Proposed Lease Terms

We understand that the landlord has proposed a new 5 year lease although it is unclear as to whether this would be inside of the Landlord of Tenant Act 1954 Security of Tenure Provisions at a revised rent of £1,032,000 although there has been no breakdown supplied to us or justification for this rent.

However they also propose to charge the council additional maintenance costs as follows:

£480	CCTV maintenance
£1,200	Broadband (it is unclear as to what this relates)
£21,600	Gardening and landscaping
£4,080	Skip hire
<u>£10,800</u>	Labour for moving furniture in and out of dwellings during the course of the year
£38,160 per annum	

Gardening and landscaping costs would normally be a landlord liability which would not be recovered from a tenant on residential properties where standard Assured Shorthold Tenancies (ASTs) are granted and it is unclear as to why the landlord is endeavouring to secure this from the Council. It is unclear as to the basis for this and the other costs but if these are specific requests from the Council due to the nature of the occupation of the houses then these may be reasonable to request. The Council should therefore investigate these in more detail.

We have also been advised that the landlord proposes to install new PVCU double glazed windows at an anticipated cost of £185,000 but again is looking for a contribution towards this cost of 75%. We would normally expect any improvement works to be payable by the landlord unless there is a discernible benefit to the tenant in cost savings for utilities etc. Notwithstanding this there is only a 5 year lease term proposed and the landlord would benefit from these improvements on lease expiry should the council not renew their lease. This proportion therefore appears high in comparison to the security of tenure for the proposed lease term.

It is unclear as to whether the council has contributed towards the ongoing programme or installing gas fired central heating to each of the dwellings but the same principals would apply as we have highlighted above.

Rental Value

We have identified a number of available properties in the immediate vicinity which would be comparable to the accommodation provided within the development assuming that Assured Shorthold Tenancies were granted on each of the dwellings. The comparables identified include:

Martinsbridge – 2 bedroom terraced house currently available at £650 pcm.

Martinsbridge – 2 bedroom terraced house with let agreed at £650 pcm.

Martinsbridge – 2 bedroom terraced house currently available at £600 pcm.

Whitacre – 1 bedroom apartment currently available at £500 pcm.

Willoughby Court – 1 bedroom house currently available at a rent of £495 pcm.

Heron Park- 3 bedroom detached house with garage currently available at a rent of £725 pcm.

Langdyke – 2 bedroom terraced house currently available at a rent of £625 pcm.

Lyvelly Gardens – 2 bedroom flat currently available at £625 pcm.

Lyvelly Gardens – 2 bedroom flat currently available at £600 pcm.

Whitacre – 2 bedroom end of terrace house currently available at a rent of £650 pcm.

Taking the above into account we are of the opinion that market rents for each of the house types assuming the grant of standard 6 months Assured Shorthold Tenancies would in the region as follows:

Type	Description	Rent pcm	Rent Pa	Total pa
1	1 bedroom flats (9 no)	£500	£6,000	£54,000
2	2 bedroom flats (6 no)	£575	£6,900	£41,400
3	2/3 bedroom houses (4 no)	£700	£8,400	£33,600
4	2/3 bedroom houses (12 no)	£700	£8,400	£100,800
5	3 bedroom houses (30 no)	£750	£9,000	£270,000
6	3/4 bedroom houses (5 no)	£800	£9,600	£48,000
7	4/5 bedroom houses (2 no)	£950	£11,400	£22,800
8	HMO Letting rooms (21 no)	£476.66	£5,720	£120,120

Before applying any discount for multiple lettings this would produce a total annual rental income of £690,720 per annum. This is clearly well below the passing rent and proposed rent albeit we acknowledge that the landlord does provide white goods to each of the dwellings. It is unclear however as to whether the landlord provides furniture to each of the dwellings and these factors would need to be added to a market rent.

Notwithstanding this however there is a significant difference between our estimate or market rent and the passing and rent proposed by the landlord.

We would normally expect a discount to be made from the aggregate market rent where a single party is taking multiple properties and particularly in the number of dwellings included under the lease. As far as we are aware the tenant remains responsible for council tax and utilities with the exception of utilities in the HMO accommodation and repairs would normally be a landlord liability under a standard Assured Shorthold Tenancy. Given that the tenant is the council this also provides a more secure income to a landlord than would be the case under multiple individual HMO tenancies.

We again stress that under Assured Shorthold Tenancies we would not normally anticipate tenants to be responsible for repairs and grounds maintenance which would normally be a landlord liability. We accept however that there may be slightly higher than normal maintenance costs for the landlord in this situation compared to private lettings. This however is not certain.

It is therefore unclear as to how the original rents were determined and the consequential proposed increased under the new lease.

Proposed Acquisition

We understand that the freehold interest in the 72 dwellings has been offered to the Council at a price of £13,800,000. Whilst it is unclear as to how this has been arrived at this price would reflect a gross yield of 7.48% on the proposed rent under the new 5 year lease.

It is a rare opportunity to be able to acquire virtually the whole of housing development as an investment and this could prove attractive to an investor.

We have considered the value of the properties on two bases, firstly with regard to the likely aggregate value of the 72 dwellings and secondly assuming a new lease is completed with PCC for a term of 5 years:-

Approach 1 – aggregate value of 72 dwellings

We have initially considered sales of similar properties in the immediate vicinity to include the following:-

Address	Type	Notes	Date	Price	Price PSF
41 Heron Park	3 bed semi	Garage	04/2019	£161,000	£205
47 Lavington Grge	3 bed semi	Parking, good order	03/2019	£172,000	£242
104 Whitacre	3 bed detached	Garage, unmodernised	02/2019	£175,000	£198
42 Heron Park	3 bed semi	Garage, reasonable order	02/2019	£140,500	£189
22 Heron Park	3 bed semi	Garage, dated	01/2019	£155,000	£187
49 Saltersgate	2 bed terrace	Similar design to subject	05/2019	£121,000	£212
47 Martinsbridge	2 bed terrace	Modest specification	03/2019	£125,000	£211
54 Martinsbridge	3 bed terrace	Garage, good order	01/2019	£182,500	£204
23 Martinsbridge	2 bed terrace	Garage very good order	11/2018	£132,000	£240
79 Martinsbridge	2 bed terrace	Modest specification	08/2018	£133,500	£226
28 Heron Park	3 bed semi	Garage, reasonable order	10/2018	£140,000	£173
40 Heron Park	3 bed semi	Garage, dated in places	09/2018	£154,000	£186
60 Heron Park	3 bed semi	Good order	08/2018	£174,000	£210
80 Whitacre	1 bed terrace	Modest standard	03/2019	£90,000	£199
36 Whitacre	1 bed flat	Modest standard	02/2019	£95,000	£152
11 Langdale	1 bed terrace	Modest standard	05/2019	£105,000	£242

We have also identified a significant number of entries in land registry for properties in St Michaels Gate over the past 2 years although it is unclear as to whether these were open market sales or whether they are recorded internal transfers given the number of transactions in a very short period of time. If the latter is the case they may not be representative of market value. Notwithstanding this we summarise the last 18 months transactions as follows:-

Address	Type	Date	Price
23 St Michaels Gate	Type 5 - 2/3 bed house	03/2019	£115,000
16 St Michaels Gate	Type 3 - 3 bed house	12/2018	£146,000
14 St Michaels Gate	Type 3 - 3 bed house	12/2018	£146,000
15 St Michaels Gate	Type 3 - 3 bed house	12/2018	£146,000
12 St Michaels Gate	Type 3 - 3 bed house	11/2018	£105,000
58 St Michaels Gate	Type 3 - 3 bed house	10/2018	£75,000
17 St Michaels Gate	Type 3 - 3 bed house	09/2018	£146,000
26 St Michaels Gate	Type 3 - 3 bed house	06/2018	£146,000
69 St Michaels Gate	Type 3 - 3 bed house	05/2018	£146,000
62 St Michaels Gate	Type 3 - 3 bed house	05/2018	£146,000
68 St Michaels Gate	Type 3 - 3 bed house	05/2018	£146,000
9 St Michaels Gate	Type 3 - 3 bed house	03/2018	£146,000
18 St Michaels Gate	Type 4 - 3/4 bed house	02/2018	£162,500

There is therefore a general tone of £146,000 having been paid for the 3 bed houses with the exception of a couple of anomalies (nos 12 and 58) which are much lower.

We have not inspected all the properties as referenced above and therefore we have assumed that all are of a modest standard with some updating undertaken. Clearly however there will be variations in the individual property values dependent on the individual specifications and these would need to be fully appraised prior to acquisition to determine a more accurate aggregate value.

Taking the above into account we have applied the following a range of values for each property type adopting values in line with the land registry entries identified at St Michaels (as a minimum value) with a second range of values which we consider would be a maximum based on the other sales in the vicinity:-

Type	Description	Min Value	Min Total	Max Value	Max Total
1	1 bedroom flats (9 no)	£75,000	£675,000	£75,000	£675,000
2	2 bedroom flats (6 no)	£85,000	£510,000	£85,000	£510,000
3	2/3 bedroom houses (4 no)	£115,000	£460,000	£130,000	£520,000
4	2/3 bedroom houses (12 no)	£146,000	£1,752,000	£160,000	£1,920,000
5	3 bedroom houses (30 no)	£146,000	£4,380,000	£160,000	£4,800,000
6	3/4 bedroom houses (5 no)	£165,000	£825,000	£185,000	£925,000
7	4/5 bedroom houses (2 no)	£185,000	£370,000	£200,000	£400,000
			£8,972,000		£9,750,000

Type 8 – we have then separately considered the value of the HMOs having regard to a potential gross market rent before deducting for landlord liabilities to include repairs, insurance, fire risk, voids, council tax, cleaning of common parts etc which is typically between 35% to 45% adjustment from the gross rent. Adopting the market rent of £28,600 pa for the 5 bed HMOs (3 no) and £34,320 pa for the 6 bed HMO this produces net adjusted rents of say £17,100 pa and £20,500 pa respectively adopting the mid range adjustment of 40%. We have capitalised the net adjusted rents at a yield of 9% to produce values of £190,000 for the 5 bedroom HMOs (£570,000 total) and £225,000 for the single 6 bed HMO.

This would produce a total aggregate value of between £9,767,000 and £10,545,000. This is before an end allowance is made for acquiring multiple properties which could be at least 10% producing say £8,790,000 to £9,490,000. The mid-point of this range would reflect a gross yield of 7.64% on our estimate of market rent of £699,120 pax.

This is substantially below the price being proposed by the landlord at £13,800,000.

Approach 2 – value assuming PCC take a new 5 year lease

The appeal of the properties on this basis will inevitably be the covenant strength of Peterborough City Council despite the relatively short lease term of 5 years. In part investors may take the view that the Council have the need to house the homeless and the management etc of this number of properties in one location and dealing with one landlord is likely to appeal compared to leasing the same number of properties in varying locations across the city. Such opportunities are rare in the market place except through acquisition of new build properties.

There could be an argument that the Council could be considered a special purchaser taking this into account who should be prepared to pay a premium however equally you would normally expect a discount for multiple properties and the landlord is equally obtaining a more secure income stream for a longer period than the standard 6 or 12 month AST term.

Our approach has been to value the income from PCC for the new 5 year term at both the proposed rent (£1,032,000 pa) and our estimate of market rent (£699,120 pa) applying a yield of 5% to the income stream before then assuming a reversion to market value of the 72 dwellings adopting the adjusted minimum and maximum values of £8,790,000 and £9,490,000 as above.

This produces the following ranges:-

Assuming the rent proposed of £1,032,000 pax	£11,360,000 to £11,910,000
Assuming a market rent of £699,120 pax	£9,920,000 to £10,465,000

All of the above figures are before any adjustment for investors costs which it could be argued should be deducted to include costs at 1.8% and stamp duty at the prevailing rate.

Even before deducting costs therefore these ranges are well below the level proposed by the landlord.

Whilst there could be an argument that PCC are a special purchaser equally the aggregate values of all the dwellings currently leased is well below the value with PCC taking a lease. Any premium paid is likely to reflect a lack of alternatives to the Council in securing this number of dwellings particularly in a single location. Notwithstanding this however the premium being sought over and above the values identified above is, in our view, excessive.

Summary

We summarise the principal queries and comments made in this report:-

- (i) The Council's negotiation position will be considered weak at present as the current lease is outside the Security of Tenure provisions and therefore there is no automatic right of renewal. Whilst the landlord is not likely to replace the same security of income and covenant across the 72 dwellings and indeed rental income, equally the Council may not have any viable alternatives to rehouse the parties in the dwellings at present. There is now a very short period of time to reach agreement before lease expiry and the landlord will be aware of this. The negotiation position is there reliant on the ability for the Council to relocate all the households currently in occupation within a short time frame and the extent to which the landlord will be aware of this in terms of their flexibility on the current proposals.
- (ii) The proposed new lease should be inside the Security of Tenure provisions if appropriate lease terms can be agreed to protect the Council's negotiating position in the future and tenant only breaks should also be sought at periodic intervals to offer the Council flexibility should their position change.
- (iii) The proposed rent is well in excess of the aggregate market rent assuming standard ASTs. Further clarification would be needed to determine whether the landlord is providing any services over and above what would normally be provided under an AST (and which would not be a standard landlord covenant in any event). The landlord appears to now be seeking additional costs on top of the rent proposal for some maintenance which we would normally expect to be a liability that they should bear.
- (iv) The landlord is seeking a substantial proportion of the proposed costs for replacing windows which under a 5 year lease the landlord will be securing the long term benefit both in terms of rental income but more particularly the capital value. We do not consider that this is reasonable or appropriate.
- (v) The quoting price indicated to date is significantly higher than the aggregate market value of the individual properties and indeed our approach subject to the new lease. If the development was acquired by the Council it would be unlikely to realise the same price in the future should their requirement for the accommodation not continue.

- (vi) The position on EPCs on the HMO accommodation needs to be investigated and revised EPCs will be required on completion of the installation of gas fired central heating and the proposed replacement windows.
- (vii) Finally we are aware that the Council have undertaken a costs benefit analysis based on finance costs set against the current rent liabilities however we draw your attention to the comments made above in relation to rents and purchase price.

We trust this is suitable for your requirements at this stage.

Barker Storey Matthews

BARKER STOREY MATTHEWS

DECISION TITLE: Authority for the acquisition of housing for temporary accommodation.

Councillor Steve Allen, Cabinet Member for Housing, Culture and Recreation

SEPTEMBER 2019

Deadline date: N/A

Cabinet portfolio holder: Responsible Director:	Councillor Steve Allen, Cabinet Member for Housing Culture and Recreation Peter Carpenter, Acting Corporate Director of Resources
Is this a Key Decision?	YES If yes has it been included on the Forward Plan: YES Unique Key decision Reference from Forward Plan: KEY/30SEPT19/01
Is this decision eligible for call-in?	YES
Does this Public report have any annex that contains exempt information?	YES Appendix 1, business case for the acquisition with financial assessment, contains exempt information under paragraph 3 of Schedule 12 A of the Local Government Act 1972.
Is this a project and if so has it been registered on Verto?	NO

R E C O M M E N D A T I O N S

The Cabinet Member is recommended to:

1. Approve the freehold purchase of St Michael's Gate at £13.38m – consisting of 72 properties used for temporary accommodation.
2. Approve the associated professional fees.
3. Approve the capital expenditure for upgrading the windows.

1. PURPOSE OF THIS REPORT

- 1.1 This report is for the Cabinet Member for Housing, Culture and Recreation to consider exercising delegated authority under paragraph 3.4.8 of Part 3 of the constitution in accordance with the terms of their portfolio at paragraph (b).
- 1.2 There is an exempt annex attached to this report that is NOT FOR PUBLICATION by reason of paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972 because it contains commercially sensitive information. The public interest test has been applied to

the information contained within this exempt annex and it is considered that the need to retain the information as exempt outweighs the public interest in disclosing it. To release the business case for the acquisition with financial assessment would jeopardise negotiations which are ongoing.

2. **TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/A
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3. **BACKGROUND AND KEY ISSUES**

- 3.1
- St Michael’s Gate is an estate of 72 houses that Peterborough City Council currently leases from Stef and Philips Ltd for temporary accommodation (TA). PCC’s current lease comes to an end on 1st November 2019 and there is an opportunity to either renew it or purchase the freehold.
 - The lease to the council offers no statutory renewal rights, as such there is a significant risk to the council that it could lose this accommodation in the future, should the landlord not want to renew the lease.
 - This would have a detrimental impact on the number of homeless households within the authority. It also means the council is vulnerable to further above market rent increases in the future.
 - The lease to the council offers no statutory renewal rights and a purchase will remove the risk of the lease being terminated by the current landlord or putting commercial pressure on the council to agree inflated rents.
 - The council’s strategy is to retain the development in the long term; the purchase of the freehold will reduce outgoings and spread the cost by taking borrowing at Public Works Loan Board (PWLB) rates. A financial appraisal is included in the exempt annex to this report for information, setting out the business case.
 - The windows of the properties need replacing and the estimated cost is detailed in the annex. This work needs to be carried out in the near future and it is recommended that the borrowing covers this additional expenditure.

4. **CONSULTATION**

- 4.1 PCC’s Housing Needs and Financial departments have both been consulted in the drafting of this report.
- 4.2 Group Leaders have been consulted

5. **ANTICIPATED OUTCOMES OR IMPACT**

- 5.1
1. This purchase will protect the council from the risk of termination of the lease in future which would make a significant number of households homeless.
 2. The council will make savings against its current outgoings and secure the long term future of this housing development.
 3. It will protect the council from future rent increases in a situation where the council is commercially vulnerable.

6. **REASON FOR THE RECOMMENDATION**

- 6.1
- Removing a major risk of households being made homeless in the future.

- The acquisition protects the council from future rent increases and allows outgoings to be reduced.
- The opportunity to acquire housing which can be held within the council's Housing Revenue Account. Once the temporary housing situation improves these properties can be used for social rented accommodation.

7. ALTERNATIVE OPTIONS CONSIDERED

7.1 Option 1- Renew the lease for St Michael's Gate for a period of 5 years

- This option has been discounted. Leasing would only be appropriate if the council wanted to retain the property in the short term – say for the next five years. As this is a longer term hold, purchasing the property will be more economic.

Option 2 – Acquire the freehold of St Michael's Gate (recommended option)

- Buying in the freehold offers benefits in terms of annual run rate savings for the council.
- It protects the council from further rental increases and gives the council complete control of a block of property which offers practical and economic advantages in terms of management.

Option 3 – Renew the lease for a period of 3-5 years during which the council acquires additional freehold properties (of an equivalent value) to be used for TA

- There will be dual costs payable as the council continues to lease the existing properties and finds more property to purchase. It will not be possible to buy 72 properties in one go and so those dual costs would continue for an extended period of time until the council was ready to move the tenants from St Michael's Gate into newly acquired properties.
- As finding 72 properties together would prove difficult, it is more likely the council would obtain 72 properties spread out over the authority. Whilst the cost of leasing these would be lower, the management over a disparate area would be more difficult and the savings would likely be eroded by higher fees.

8. IMPLICATIONS

8.1 Financial Implications

8.1.1 The council no longer operates a Housing Revenue Account, its housing stock was transferred to Cross Key Homes in 2004. However it is permissible for the council to hold residential properties in its General Fund for the purpose of providing temporary accommodation.

8.1.2 Cabinet has approved a decision to commission a review of the current Housing Strategy and as part of that work an application will be made to set up a Housing Revenue Account. Once the Housing Revenue Account is open these properties will be considered for transfer from the council's General Fund into the new Housing Revenue Account.

8.1.3 Within the council's accounts the purchase of the properties will be initially funded through the Invest to Save budget but will transfer to the HRA on delivery of the HRA business case. The criteria for use of the Invest to Save budget will be satisfied by the savings made by ensuring the families currently accommodated within St Michael's Gate are not made homeless when the current lease expires. The costs of accommodating these families in bed and breakfast accommodation have been incorporated into the Business Case in the exempt annex. The council will have security over its investment as it will retain the

properties purchased and will benefit from any capital appreciation in the value of the properties.

- 8.1.4 The Business case, in the exempt annex, demonstrates that the provision of these homes will generate net savings from 2019/20 for the council when compared to accommodating these families in Bed and Breakfast accommodation if the council does not purchase or lease the properties when the current lease expires.

Legal Implications

- 8.2 N/A

Equalities Implications

- 8.3 N/A

Other Relevant Implications

- 8.5 It is proposed that the current managers Stef & Philips will continue to manage the properties in the short term whilst the council goes through a procurement exercise to find a supplier.

Carbon Impact Implications

- 8.6 Works to be done to the building include new UPVC windows and further installation of gas central heating, both of which will improve the energy efficiency of the properties.

9. DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED

- 9.1 None.

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

- 10.1 None

11. APPENDICES

- 11.1 Appendix 1 (EXEMPT) - business case for the acquisition with financial assessment.

EXEMPT ANNEX RELATING TO THE PURCHASE OF HOUSING AT ST. MICHAEL'S GATE PETERBOROUGH

(Not for publication in accordance with Paragraph 3 of Schedule 12A of Part 1 to the Local Government Act 1972).

The information contained in the Exempt Annex should not be disclosed because the information:

- relates to an individual;
- is likely to reveal the identity of an individual;
- relates to the financial or business affairs (past or present) of a particular person (including the Council);
- relates to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters (which are or may be the subject of a dispute) arising between the Council or a Minister of the Crown and employees (employed under an employment contract) or office holders of the Council;
- is in respect of a claim for legal professional privilege in legal proceedings;
- reveals that the Council proposes to: 1) give under any legislation a notice under which requirements are imposed on a person; or 2) make an order or direction under any legislation;
- relates to any action taken or to be taken in connection with the prevention, investigation or prosecution of a crime.

The public interest test has been applied to this information and it is considered that the need to retain this information as exempt outweighs the public interest in it because:

Commercial negotiations regarding the purchase of this property are still ongoing and therefore it is not appropriate for the financial details to be made public at this juncture.

Details of the Exempt Information

St Michael's Gate is a development of 72 houses owned by Stef & Philips Ltd in Parnwell, Peterborough.

Terms have been agreed for the Council to acquire the houses at £13,378,000. Although this is in excess of the market value specified by Barker Storey Matthews in their valuation report, it needs to be seen in the context of the Council already paying an above market rent of £960k per annum and being vulnerable to future rental increases.

The rent is set to increase to £1,032,000 per annum. Given the relatively low cost of borrowing via the PWLB, it makes financial sense for the Council to borrow the money to acquire the freehold of the site, should this be a long term hold for the council. This will have the benefit of giving the Council full control over the management of the site in the future.

The net cost after borrowing per annum is £197k for a purchase (50 year loan) compared to £790k per annum (based on the five year lease).

The Council will soon have the option to hold the property within a Housing Revenue Account (HRA); should the temporary housing situation improve in the future these properties could be held within the HRA and let out at LHA or market rents. (A financial summary of the HRA is included on the final page).

It is recommended that the borrowing be sufficient to cover the cost of replacing the double glazed windows which is estimated at £185k + VAT.

Summary of Costs over five years

	<u>Comparison of Alternatives for St.Michael's Gate</u>			
	Present Costs	Continue Leasing	Purchase Within General Fund	Purchase Within HRA
	£K	£K	£K	£K
	Net Cost Per Annum	537	790	197
Net Cost Over 5 Years	2,477	3,170	816	(268)

St Michaels Gate - Lease Proposal		
	Per Annum costs	costs for 5 years
		5
Steph and Phil proposal	1,032,000.00	5,160,000.00
SDLT	60,328.82	60,328.82
contribution to windows - 75%	135,000.00	135,000.00
additional maintenance and running costs	38,160.00	190,800.00
Income	-475,193.80	-2,375,969.01
	<u>790,295.02</u>	<u>3,170,159.81</u>
BSM market rent	690,720.00	3,453,600.00
SDLT	48,500.00	48,500.00
white goods	41,800.00	41,800.00
management costs	7,480.00	37,400.00
Income	-475,193.80	-2,375,969.01
	<u>313,306.20</u>	<u>1,205,330.99</u>
B&B Costs Avoided	<u>1,197,134.64</u>	<u>5,985,673.20</u>

N.B. BSM market rent refers to the estimated market rental value from Barker Storey Matthew's valuation which shows the Council is paying considerably above the estimated market rent.

St Michaels Gate - Purchase Proposal

number of properties	72
	£
Steph and Phil proposal	13,378,000
plus new windows	180,000
SDLT	497,900
NPS advised additional purchase costs	61,000
A	<u>14,116,900</u>
BSM value placed on lease proposal (upper end)	11,910,000
SDLT	415,500
NPS advised additional purchase costs	61,000
B	<u>12,386,500</u>
BSM value placed on market rent (upper end)	10,465,000
SDLT	343,250
NPS advised additional purchase costs	61,000
C	<u>10,869,250</u>

Borrowing Scenario for 50 years

		year 1	life of asset
	<i>purchase price</i>		50
A	13,378,000		
	borrowing costs	433,587	21,759,825
	maintenance costs	170,000	8,670,000
	management costs	7,480	374,000
	white goods	41,800	297,000
	estimated income	-475,194	-24,234,884
	voids	19,008	969,395
		<u>196,681</u>	<u>7,835,336</u>

PTO

HRA financials

	year 1	life of asset
housing revenue account		50
borrowing costs	259,553	7,642,925
maintenance costs	72,000	8,670,000
management costs	7,480	374,000
white goods	41,800	297,000
estimated income	-475,194	-24,234,884
voids	19,008	969,395
major repairs reserve	51,504	2,575,200
right to buy provision	10,222	511,103
	<u>-13,627</u>	<u>-6,281,564</u>

borrowing costs	199,842	5,884,639
maintenance costs	170,000	8,670,000
management costs	7,480	374,000
white goods	41,800	297,000
estimated income	-475,194	-24,234,884
voids	19,008	969,395
major repairs reserve	51,504	2,575,200
right to buy provision	10,222	511,103
	<u>-37,064</u>	<u>-8,039,849</u>

	<u>1,197,134.64</u>	<u>59,856,732.00</u>
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