

INNOVATION AND CHANGE DEPARTMENT
Interim Executive Director – Louise Round



**Democracy Services
London Borough of Merton
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Morden SM4 5DX**

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Date: 12 April 2023

Dear Councillor

Notification of a Decision taken by the **Chief Executive and Executive Director Adult Social Care, Integrated Care & Public Health**

The attached **Key decision** has been taken with regards to the **Lease negotiation in respect of temporary accommodation for homeless households under Part VII Housing Act 1996 at Seoul House Motspur Park** and will be implemented at **noon on Monday 17 April 2023** unless a call-in request is received.

The [call-in](#) form is attached for your use if needed and refers to the relevant sections of the constitution.

Yours sincerely

Democracy Services

KEY DECISION TAKEN BY AN OFFICER UNDER DELEGATED AUTHORITY

See over for instructions on how to use this form – all parts of this form must be completed. Type all information in the boxes. The boxes will expand to accommodate extra lines where needed.

1. Title of report

Lease negotiation in respect of temporary accommodation for homeless households under Part VII Housing Act 1996 at Seoul House Motspur Park

2. Reason for exemption (if any)

N/A

3. Decision maker

Hannah Doody
John Morgan

4. Date of Decision

06/04/23

5. Date report made available to decision maker

Via CMT 21/03/23

6. Decision

To enter into the lease of Seoul House

7. Reason for decision

To use as temporary accommodation

8. Alternative options considered and why rejected

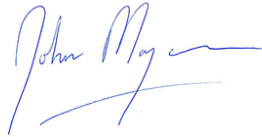
See report

9. Documents relied on in addition to officer report

Attached report

10. Declarations of Interest

11. Signature

Signature  Date 12.04.23

Signature

Hanna E. Joooy

Date 12.04.23

Committee:

Date: 21st March 2023

Subject: Lease negotiation in respect of temporary accommodation for homeless households under Part VII Housing Act 1996 at Seoul House Motspur Park

Lead officer: Elliot Brunton, Interim Head of Housing Needs and Strategy

Lead member: Andrew Judge, Cabinet Member for Housing and Sustainable Development

Director: John Morgan, Executive Director Adult Social Care, Integrated Care & Public Health

Contact officer: Elliot Brunton, Interim Head of Housing Needs and Strategy

Recommendations:

A. For information and advice

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1. The purpose of this report is to seek authority for the Council to enter into a lease for a term of 5 years for flats 1-12 at Seoul House, 9 Station Road, Motspur Park, KT3 6JJ.

2 DETAILS

2.1 The Council's duties to the homeless are contained within Part VII of the Housing Act 1996 (as amended). These duties, in summary, provide a safety net for those persons in the borough at risk of homelessness. Where such people appear to be (a) eligible for assistance (mainly concerned with having settled immigration status); (b) homeless; and (c) in priority need of accommodation (most commonly having responsibility for children or being vulnerable), they are owed what is known as the 'interim' duty. This duty provides them with temporary accommodation pending more detailed enquiries into their application and actions taken by the authority to relieve their homelessness.

2.2 Where, on conclusion of those enquiries, officers within the Housing Department are satisfied, on behalf of the Council, that the homeless person is eligible; homeless; is in priority need and did not become intentionally homeless; and has a local connection, then they are owed what is known as the 'full' or the 'main' duty. This is a duty to continue to provide them with suitable temporary accommodation, without limit of time, until the duty is brought to an end in a limited number of prescribed circumstances, most commonly via a reasonable offer of accommodation. This offer is from a registered social landlord or via a private sector Landlord.

2.3 Accommodation offered under the Act is required to be suitable for homeless households and this is set out in the Homelessness (Suitability of

Accommodation) (England) Order 2012. When securing accommodation in relation to either the “interim” or “main” homeless duty, s208(1) of the Housing Act states, so far as reasonably practical, the authority must secure this accommodation in its own area. This was reinforced in the Supreme Court judgement handed down in the case of *Nzolameso v Westminster 2015*.

- 2.4 Central government policy has restricted the types of temporary accommodation that can be seen as a suitable in the discharge of these duties. With effect from 1st April 2004, the use of bed and breakfast for families with children was made unlawful over a 6 week period and the use of this accommodation for persons aged 16 or 17 years old is likewise discouraged.
- 2.5 The Council has power to acquire housing accommodation for the purposes of satisfying its duties to provide accommodation for the homeless (s17 of the Housing Act 1985). The properties will be offered either as emergency accommodation in compliance with the “interim duty” under s188 of the 1996 Act or as temporary accommodation under “main duty” under s193 of the Act. In addition, the Council may provide temporary accommodation in certain circumstances to persons to have no recourse to public funds in order to fulfil its duties under the Care Act 2014 and the Children’s Act 1989.

3 OFFER OF ACCOMMODATION AT SEOUL HOUSE

- 3.1. The Council has recently been contacted by the owner of flats 1-12 at Seoul House, 9 Station Road, Motspur Park, KT3 6JJ The build is adjacent to Motspur Park library and Motspur Park Station.
- 3.2. The owner has previously leased the entire block to Metropolitan Thames Valley (a registered provider/housing association) for two years. They have been using it for accommodation for households who were displaced by the fire at The Hamptons in Sutton who are now able to return there. The current lease arrangements ended on the 2nd March 2023.
- 3.3. The owner is a builder and he provides a comprehensive management service. His key requirement is to get a guaranteed income.
- 3.4. Officers have visited the property and can confirm that it is of a high quality.
- 3.5. Seoul House provides-
 - 12 Self-contained flats, made up of 8 one-beds (with living rooms) and 4 two-beds
 - The building benefits from a lift
 - Parking for residents on the ground floor
 - Very close to transport links
- 3.6. Following negotiations a price of £180,000 per annum has been agreed with a yearly increase of 3% on a 5 year contract. There is an additional £16,114.90 per annum for providing services and communal utility costs. Council tax is will be paid by the tenants the Council would place in each flat

- 3.7. By comparison, if the Council was to spot purchase the same number of flats as temporary accommodation on a nightly rate (using the maximum rates agreed under London Borough inter-borough temporary accommodation agreement(IBAA)) in the same area for a year, this would be £185,420.
- 3.8. There is considerable pressure on the existing IBAA rates and London Housing Directors have agreed a 10% agreement on existing rates in January 2023. This would bring the rate to £203,962.

3.9. **Cost Summary**

Cost of lease	£196,114.90 (£180,000 plus £16,114.90)
Nightly paid accommodate at current prices	£185,420
Nightly paid accommodate with 10% increase	£203,962

- 3.10. The owner has stated that he has planning permission for an additional flat on the roof. In order to build this he will require the use of the top floor flat (a 1 bed) for an estimated 20 week period. He has stated that for the period that this takes, he will reduce the rent to £165,000 (pro-rata). We have sought assurances from him that disruption and noise will be kept to a minimum in working hours only and not at weekends. The estimated build time is 20 weeks.
- 3.11. The owner has stated he would have no difficulty in entering into a contract with another Council if Merton will not work with him and we are aware that approaches have been made to both Kingston and Sutton.
- 3.12. There is considerable fluidity in the temporary accommodation market and there is significant competition from other London boroughs requiring such properties.
- 3.13. Most importantly this accommodation is in-borough and close to transport and local amenities and is in line with the s208 duty to find local accommodation wherever possible.

4 KEY CONSIDERATIONS

- 4.1. The purpose of entering into a for Seoul House is to ensure that homeless clients continue to be housed in suitable secure accommodation that meets minimum standards. It is recognised that the use of private sector accommodation to house homeless clients is expensive, however due to housing demand pressures and the shortage of social housing the Council is heavily reliant on the private housing sector to source temporary accommodation for those who present as homeless.
- 4.2. The Council has no access to other more cost effective types of temporary accommodation such as the use of vacant Council housing stock and whilst

we have previously made use of 'buy back' properties on the Clarion regeneration sites, no further properties are now being made available.

- 4.3. Whilst it is the case that the Council is a member of *Capital Letters*, which is a pan-London private sector procurement organization, it is the case that, at present, they do not provide temporary accommodation as defined above but rather provide homes that are offered to applicants in full discharge of homeless duties (e.g. bringing those duties to an end), and this includes existing applicants in temporary accommodation.

5 ALTERNATIVE OPTIONS

5.1. Option 1: Do Nothing:

If the Council does not agree the lease we can continue to procure on a nightly basis. However this will be subject to volatility in the temporary accommodation market and costs may rise. It is also very likely that such accommodation will be outside of Merton.

It would be likely that another authority will pick up the lease and this would have potential resource implications for health and CSF. This occurred with Vantage House in Weir Road.

5.2. Option 2: Agree a 5 year lease with Tadworth Investment Holds LTS for Seoul house

This is the recommended option

6 CONSULTATION UNDERTAKEN OR PROPOSED

- 6.1. None Applicable

7 TIMETABLE

- 7.1. The Landlord wants the lease to be in place by the 1st April 2023

8 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 8.1. There are currently around 346 homeless households in nightly paid temporary accommodation as of January 2023. There are 245 households located in accommodation out of borough or 71%. The gross cost of nightly paid accommodation for 2021/22 was £4,945,415. The gross cost forecasted for this financial year it is £7.1m and net of £1.3m. There will be a stamp duty cost for the acquisition of the lease.
- 8.2. The Council will be responsible for any legal action to evict a tenant in the event this is required. In addition the Council would have to pay for any damages beyond normal wear and tear at end of tenancy. We have such an existing arrangement with Hall Place. It is anticipated that there will not be regular move-on and most tenants will likely stay for several years.

9 ESTIMATED VALUE OF CONTRACT

- 9.1. The costs of temporary accommodation are funded by rents charged to occupants, and much of this rent is met by housing benefits payments. However, since the implementation of the local housing allowance and the benefit cap, housing benefit subsidy no longer covers the full cost of temporary accommodation.

The total projected value of the proposed lease would be £180,000 per year or £1,002,365 over the life of a 5 year contract

10 LEGAL AND STATUTORY IMPLICATIONS

- 10.1. The Homelessness legislation, Part VII of the Housing Act 1996 (“the 1996 Act”) as amended by Homelessness Act 2002, and subsequent legislation, Orders and Code of Guidance govern the duties and obligations on housing authorities for prevention of homelessness and for securing that sufficient accommodation will be available for people who become homeless or who are at risk of becoming so.
- 10.2. The Councils powers to acquire the properties are set out in paragraph 2.5 of this report. . Councils have a duty under S.74 of the Local Government Housing Act 1989 to keep a Housing Revenue Account for properties provided under part II of the 1985 Housing Act unless the Secretary of State directs that the properties do not need to be held within a HRA. For properties acquired after 31 March 1997 the HRA (exclusion of leases) Direction 1997 excludes leases for a term of less than 10 years which are acquired for the purpose of providing accommodation pursuant to the Council homelessness function under the 1996 housing Act Part VII

11 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 11.1. There are no significant factors relevant to this exercise. The service will of course continue to be provided in accordance with the council’s Equalities and Diversity Policy and other relevant policy and legislation. A Equalities Impact Assessment will be completed.

12 CRIME AND DISORDER IMPLICATIONS

- 12.1. None for the purposes of this report

13 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 13.1. There are three main areas of risk associated with the proposed contracts.
- 13.2. The risk is that the Council is unable to source a sufficient quantity of suitable properties that meet demand and is unable to meet its legal obligations.
- 13.3. The second risk is that the Council sources too much temporary accommodation i.e. you have a block contract with vacant rooms the costs of which you cannot off-set with client charges.
- 13.4. Currently there is a steady number of homeless households approaching the housing team and a number of larger families living in temporary accommodation in nightly paid accommodation outside of the borough which could be relocated to Hall Place.

14 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- 14.1. None.

15 BACKGROUND PAPERS

- 15.1. None.

Equality Impact Analysis



Please refer to the guidance for carrying out an [Equality Analysis](#).
Text in blue is intended to provide guidance – you can delete this from your final version.

What are the proposals being assessed?	Proposed Lease on Seoul House, Motspur Park for use for homeless families under Part VII Housing Act 1996
Which Department/ Division has the responsibility for this?	Housing Needs, Community & Housing

Stage 1: Overview	
Name and job title of lead officer	Elliot Brunton, Interim Head of Housing Needs and Strategy
1. What are the aims, objectives and desired outcomes of your proposal? (Also explain proposals e.g. reduction/removal of service, deletion of posts, changing criteria etc.)	<p>To take on a lease at Seoul House, Motspur Park which contains 12 flats (8 x one bed flats and 4 x 2 bed flats) for the use of homeless families for a 5-year period. At present the Council has one other lease for 81 units at Hall Place Church Road. Outside of leases the Council spot purchases nightly paid temporary accommodation on the market. This accommodation is not intended to end homeless duties in the way that a social or private housing tenancy, but rather to provide temporary accommodation pending a longer term offer.</p> <p>This lease will allow the Council to accommodate more families in-borough under its homelessness duties. This will also decrease the prospect of legal challenge on the basis that the authority has not provided suitable accommodation in relation to specific cases. Existing families in temporary accommodation outside of Merton could also potentially be moved back to the borough.</p> <p>The property also benefits from very local transport links, notably Motspur Park Station, a lift and proximity to Blossom House school. The property is located in the west of the borough where it is very difficult to procure any temporary accommodation.</p>
2. How does this contribute to the council's corporate priorities?	<p>The Council has a duty under Housing Act s208 to provide accommodation in borough so far as reasonably practicable under s188 and 193(2). This will also assist other Council Services such as social care and education by providing local accommodation for homeless households.</p> <p>This is also in line with the published Code of Guidance for homelessness.</p>
3. Who will be affected by this proposal? For example, who are the external/internal customers,	Homeless household including children. Homelessness may arise through end of private sector tenancy, family breakdown, domestic abuse, property conditions and disrepair. Homeless applicants are identified as

<p>communities, partners, stakeholders, the workforce etc.</p>	<p>having worse outcomes in relation to health and education in comparison with the general population.</p> <p>Some homeless customers will have health issues and the property is accessible and benefits from a lift.</p>
<p>4. Is the responsibility shared with another department, authority or organisation? If so, who are the partners and who has overall responsibility?</p>	<p>The responsibility for the procurement and management is not shared with other council departments. The lease will; be with a private developer who will manage the block with the Council.</p> <p>As noted above this will positively impact other divisions notably children social care and education, but potentially adult social care and health. There are also potential benefits for other partnerships such as the police and probation, in terms of likely benefits to victims. Local accommodation allows the provision of local services for homeless applicants.</p>

Stage 2: Collecting evidence/ data

5. What evidence have you considered as part of this assessment?

Provide details of the information you have reviewed to determine the impact your proposal would have on the protected characteristics (equality groups).

The Council currently has 346 households in temporary accommodation 71% of which are housed outside of the borough. We have also had regard to the Code of Guidance on homelessness published by the Department for leveling up, Housing and Communities which covers suitability of accommodation with specific references to location

Stage 3: Assessing impact and analysis

6. From the evidence you have considered, what areas of concern have you identified regarding the potential negative and positive impact on one or more protected characteristics (equality groups)?

Protected characteristic (equality group)	Tick which applies		Tick which applies		Reason Briefly explain what positive or negative impact has been identified
	Positive impact		Potential negative impact		
	Yes	No	Yes	No	
Age	X			x	Local temporary accommodation potentially benefits all groups
Disability	X			x	Accommodation not fully accessible, but entering into the lease has no negative impact on homeless individuals with a disability as does not reduce the availability of accessible temporary accommodation.
Gender Reassignment	X			x	Local temporary accommodation potentially benefits all groups
Marriage and Civil Partnership	X			x	Local temporary accommodation potentially benefits all groups
Pregnancy and Maternity	X			x	Local temporary accommodation potentially benefits all groups
Race	X			x	Local temporary accommodation potentially benefits all groups
Religion/ belief	X			x	Local temporary accommodation potentially benefits all groups
Sex (Gender)	X			x	Local temporary accommodation potentially benefits all groups
Sexual orientation	X			x	Local temporary accommodation potentially benefits all groups
Socio-economic status	X			x	Local temporary accommodation potentially benefits all groups

7. If you have identified a negative impact, how do you plan to mitigate it?

No Negative impact identified

Stage 4: Conclusion of the Equality Analysis

8. Which of the following statements best describe the outcome of the EA (Tick one box only)

Please refer to the guidance for carrying out Equality Impact Assessments is available on the intranet for further information about these outcomes and what they mean for your proposal

- Outcome 1** – The EA has not identified any potential for discrimination or negative impact and all opportunities to promote equality are being addressed. **No changes are required.**
- Outcome 2** – The EA has identified adjustments to remove negative impact or to better promote equality. **Actions you propose to take to do this should be included in the Action Plan.**
- Outcome 3** – The EA has identified some potential for negative impact or some missed opportunities to promote equality and it may not be possible to mitigate this fully. **If you propose to continue with proposals you must include the justification for this in Section 10 below, and include actions you propose to take to remove negative impact or to better promote equality in the Action Plan. You must ensure that your proposed action is in line with the PSED to have ‘due regard’ and you are advised to seek Legal Advice.**
- Outcome 4** – The EA shows actual or potential unlawful discrimination. **Stop and rethink your proposals.**

Stage 5: Improvement Action Pan

9. Equality Analysis Improvement Action Plan template – Making adjustments for negative impact

This action plan should be completed after the analysis and should outline action(s) to be taken to mitigate the potential negative impact identified (expanding on information provided in Section 7 above).

Negative impact/ gap in information identified in the Equality Analysis	Action required to mitigate	How will you know this is achieved? e.g. performance measure/ target)	By when	Existing or additional resources?	Lead Officer	Action added to divisional/ team plan?

Note that the full impact of the decision may only be known after the proposals have been implemented; therefore, it is important the effective monitoring is in place to assess the impact.

Stage 6: Reporting outcomes

10. Summary of the equality analysis

This section can also be used in your decision-making reports (CMT/Cabinet/etc..) but you must also attach the assessment to the report, or provide a hyperlink

This Equality Analysis has resulted in an Outcome [add](#) Assessment

- The proposal will ensure a greater number of local homeless households are able to remain in Merton and access local schools, medical care and other services
- The council will decrease the prospect of legal challenges on the basis that the authority has not provided suitable accommodation in relation to specific cases
- No potential negative impact was identified in relation to groups with protected characteristics

Stage 7: Sign off by Director/ Head of Service			
Assessment completed by	Elliot Brunton	Signature:	Date:12/04/23
Improvement action plan signed off by Director/ Head of Service	Add name/ job title	Signature:	Date:

Merton Council - call-in request form

1. Decision to be called in: (required)

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2. Which of the principles of decision making in Article 13 of the constitution has not been applied? (required)

Required by part 4E Section 16(c)(a)(ii) of the constitution - tick all that apply:

(a) proportionality (i.e. the action must be proportionate to the desired outcome);	
(b) due consultation and the taking of professional advice from officers;	
(c) respect for human rights and equalities;	
(d) a presumption in favour of openness;	
(e) clarity of aims and desired outcomes;	
(f) consideration and evaluation of alternatives;	
(g) irrelevant matters must be ignored.	

3. Desired outcome

Part 4E Section 16(f) of the constitution- select one:

(a) The Panel/Commission to refer the decision back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns.	
(b) To refer the matter to full Council where the Commission/Panel determines that the decision is contrary to the Policy and/or Budget Framework	
(c) The Panel/Commission to decide not to refer the matter back to the decision making person or body *	
* If you select (c) please explain the purpose of calling in the decision.	

4. Evidence which demonstrates the alleged breach(es) indicated in 2 above (required)

Required by part 4E Section 16(c)(a)(ii) of the constitution:

5. Documents requested

6. Witnesses requested

7. Signed (not required if sent by email):

8. Notes – see part 4E section 16 of the constitution

Call-ins must be supported by at least three members of the Council.

The call in form and supporting requests must be received by 12 Noon on the third working day following the publication of the decision.

The form and/or supporting requests must be sent:

- **EITHER** by email from a Councillor’s email account (no signature required) to democratic.services@merton.gov.uk
- **OR** as a signed paper copy to the Head of Democracy and Electoral Services, 1st floor, Civic Centre, London Road, Morden SM4 5DX.

For further information or advice contact the Head of Democracy and Electoral Services on 020 8545 3409