

SIGNED OFF BY	Chief Executive
AUTHOR	Caroline Waterworth, Head of Legal and Governance Tom Borer, Policy Officer
TELEPHONE	01737 276717
EMAIL	tom.borer@reigate-banstead.gov.uk
TO	Executive
DATE	Thursday, 30 May 2019
EXECUTIVE MEMBER	Portfolio Holder for Place & Economic Prosperity

KEY DECISION REQUIRED	Yes
WARDS AFFECTED	Horley Wards

SUBJECT	Acquisition of Freehold in Horley - May 2019
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RECOMMENDATIONS
<p>1. Subject to a satisfactory due diligence, the Head of Legal and Governance, in consultation with the Head of Finance & Assets, Leader of the Council, and Executive Members with responsibility for Place & Economic Prosperity, Finance, and Investment & Companies, be authorised;</p> <p>a. To acquire the freehold land in Horley, as referred to in the part 2 section of this agenda, as a strategic investment to support the delivery of the Council's Corporate Plan objectives, and to finalise the Heads of Terms and associated agreements to support the acquisition, in line with the principles and financial requirements of the report.</p> <p>b. To fund the acquisition and supporting costs from the funding allocated within the approved Capital Programme for 2019/2024 for investment in capital schemes to support delivery of the Corporate Plan, Housing Strategy and Investment Strategy, as set out in the part 2 section of this agenda.</p>
REASONS FOR RECOMMENDATIONS
To obtain Executive authority to acquire, subject to due diligence, the specified freehold of land in Horley, which will support the delivery of the Council's Corporate Plan objectives and provide the potential to generate additional income for the Council.
EXECUTIVE SUMMARY

This report seeks authority to acquire the freehold interest of land in Horley. It is considered that the acquisition of this land as a strategic investment will support the delivery of the Council's Corporate Plan objectives through its future potential use, and offer the potential to generate income for the Council.

As a strategic investment, the proposed acquisition is not without risk, and it is possible that the full extent of the identified potential benefits may not be realised. In taking this decision, Executive Members should take account of the possible risks and potential benefits and make a judgement on the appropriate considerations.

Details of the land in question, the financial and risk implications of its acquisition, and the Council's bid are set out in the exempt Part 2 section of this agenda. This information is exempt on the grounds that it relates to the financial and business affairs of the Council, and the public interest in maintaining the exemption is judged to outweigh the public interest in disclosing the information.

This report is circulated as an addendum to the Executive agenda for the meeting of 30 May 2019 due to details pertinent to the consideration of the decision becoming available subsequent to the publication of the agenda.

The Executive has authority to approve the above recommendations.

STATUTORY POWERS

1. Section 120 of the Local Government Act 1972 gives Local Authorities the power to acquire land by agreement for the benefit, improvement and development of its area.
2. Section 2 of the Local Government Act 2000 gives Local Authorities a general power of competence to act in the furtherance of the economic, social or environmental wellbeing of their area. The exercise of that power is specifically linked, in section 4 of the act, to works required in the furtherance of community and corporate plan objectives.
3. This acquisition is anticipated to provide financial, social and environmental enhancements to the wellbeing of the area for the reasons set out in the exempt Part 2 section of this agenda.
4. These enhancements will further the objectives of the Council's Corporate Plan.
5. In keeping with Part 2 of the Local Government Act 2000, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, and the Localism Act 2011, the power to acquire land is not restricted from the Executive, and is thus an Executive function.
6. Funding for the acquisition is allocated within the approved Capital Programme for 2019/2024 for investment in capital schemes to support delivery of the Corporate Plan, Housing Strategy and Investment Strategy.

BACKGROUND

7. The Council's Corporate Plan contains a number of objectives aimed at ensuring the borough is a great place to live and work.
8. Acquisition of the identified freehold would enable the Council to utilise the land to

support delivery of these objectives.

9. By way of general context for the consideration of investments, funding for Local Authorities has reduced in recent years, including the loss of the Revenue Support Grant from central government in 2016/17, and there is a risk of further reductions to available funding. Simultaneously, the demands faced by Local Authorities have increased in many areas.
10. The Council's Corporate Plan contains a priority for the Council to be financially self-sufficient, without impacting on the priorities of its residents. As such, to enable the Council to continue to deliver the current level of services to the borough and its residents, it is necessary for the Council to acquire additional sources of income. The acquisition of the freehold identified offers potential to generate income to support these objectives.
11. In July 2018, the Executive approve the acquisition of the identified freehold land, subject to due diligence. However, changes to circumstances meant that no final agreement for the acquisition of the land was reached, and the land was not acquired at that time.
12. Since then, further changes to circumstances have led to conditions such that the acquisition of the freehold land is again considered to be a good opportunity to support the Council's Corporate Plan and its objectives.
13. Due to the changes in circumstance, the financial implications of the acquisition are now different to those in July 2018.
14. As such, new Executive approval is sought to acquire the freehold land, in line with the new financial implications.

KEY INFORMATION

15. The Council will submit a bid for the purchase of the freehold interest and move to agreement of Heads of Terms if the terms of the deal receive Executive approval. The vendor has indicated a willingness to treat pending such approval through the appropriate governance process within the Council.
16. Acquiring this freehold interest is likely to provide development opportunities of the land in the future, however the acquisition will not affect the terms of the current occupational tenants licence arrangements. If the acquisition is successful the occupational tenants will continue to pay rent to the Council, providing the Council with an income stream.
17. The agreed purchase is subject to continuing due diligence to confirm that there are no problems with the legal title, purchase price, surveys, or environmental considerations.
18. The acquisition is intended as a strategic investment, with the intention of supporting the Council's Corporate Plan objectives.
19. The acquisition also offers the potential to generate a financial return for the Council. As such, the financial implications for the Council are clearly relevant. An overview of these is provided in the Background and Financial Implications section of this report, with details provided in the exempt Part 2 section of the agenda.

OPTIONS

20. The options available to the Executive are set out below:

Option 1: Authorise the acquisition of the freehold land and associated delegations and use of funding. Subject to the due diligence set out in paragraph 19, this is the recommended option. The Council will thereby acquire land of strategic interest, which will support the delivery of the Corporate Plan.

Option 2: Investigate alternative models for acquisition of the freehold land. This is not the recommended option. Alternative models for acquisition of the property, such as seeking to acquire it in partnership with other parties, would provide a different balance of risks and benefits. However, as set out in the exempt Part 2 section of the agenda, the circumstances in this case are such that direct acquisition of the freehold land is considered to be the most beneficial option.

Option 3: Do Nothing. This is not the recommended option. As set out in the exempt Part 2 section of the agenda, the acquisition of the freehold land is considered to be a significantly opportunity for the Council to support the delivery of its Corporate Plan objectives and it is thus recommended that this opportunity be pursued.

LEGAL IMPLICATIONS

21. As identified in the Statutory Powers section of this report, the Council has the power to acquire land, and to act in the furtherance of the economic, social or environmental wellbeing of the area.
22. There is no legal duty to consult the public on any commercial terms of the acquisition. These are matters for the authority. The Executive is entitled to determine them at its discretion, notwithstanding any previous decisions it has made, having considered the contents of this report.
23. Although the Council is not under an explicit duty to acquire property at market value, it must still have regard to its fiduciary duties to its Council Tax payers and its best value duty.
24. Legal and valuation advice shall be sought as necessary throughout the acquisition process.

FINANCIAL IMPLICATIONS

25. The proposed acquisition for which authority is sought in this report offers the potential to generate income and a financial return for the Council. However, there are also financial risks inherent in the proposed acquisition, and Executive Members should consider these in making their decision.
26. As identified in paragraph 6, funding for the acquisition is allocated within the approved Capital Programme for 2019/2024 for investment in capital schemes to support delivery of the Corporate Plan, Housing Strategy and Investment Strategy.
27. The main expected financial benefit to the Council is based on the assessed future potential of the freehold land. As a strategic investment, this benefit would be obtained on a long term basis, and would not offer a significant return to the Council in the short term. The details of the potential and associated benefit to the Council, along with the corresponding risks, are set out in the exempt Part 2 section of the

agenda.

28. The freehold land will also provide the Council with a modest income stream of rental income from the current occupational tenant. There are also potential risks to rental income due to factors such as tenant default, void periods between lettings, or variation in rental values due to market conditions. The details of the income from the proposed acquisition are set out in the exempt Part 2 section of the agenda.

EQUALITIES IMPLICATIONS

29. There are no direct equalities implications of this decision. The acquisition of the identified freehold land should have no negative or discriminatory effects upon any individuals with protected characteristics.
30. In the event of future decisions being taken on the use of the land, these will have due regard to equalities implications, in line with relevant legislation and Council policy.
31. Any financial benefit secured for the Council will be used to support the Council's Corporate Plan. The Council's Corporate Plan and associated policy documents were developed with due regard for equalities implications.

COMMUNICATION IMPLICATIONS

32. No communications would be issued until the Council has exchanged contracts on the proposed acquisition, in line with the confidential nature of the contract negotiations. Further detail of communications matters are set out in the exempt Part 2 section of this agenda.

RISK MANAGEMENT CONSIDERATIONS

33. As a strategic investment, the proposed acquisition is not without risk, and it is possible that identified potential benefits may not be realised. Details of the risk management considerations are set out in the exempt Part 2 section of this agenda.

CONSULTATION

34. The Leader of the Council and Executive Members with responsibility for Place & Economic Prosperity, Finance, and Investment & Companies have been consulted with regard to the recommendations of this report.

POLICY FRAMEWORK

35. As identified, the proposed acquisition of the site would support the delivery of the Council's Corporate Plan objectives through providing enhancements to the local area.
36. The proposed acquisition of the freehold land would enable the Council to support development of the site in line with land allocations identified in the emerging Development Management Plan for the borough.
37. The proposed acquisition is in line with the Council's Outline Capital Investment Strategy 2019/20.