

Guildford Borough Council

Report to: Executive
Date: 09 January 2025
Ward(s) affected: Castle
Report of Strategic Director: Finance and Resources
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Lead Executive Member: Cllr Richard Lucas, Lead Councillor Finance
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Status: Part Exempt
Key decision: Yes

Freehold Disposal of Land at Bright Hill and Robin Hood Car Parks

1.0 Executive Summary

- 1.1 The Council has a long-held aspiration to redevelop the surface car park at Bright Hill to deliver housing for the Housing Revenue Account in accordance with the existing Local Plan allocation for the site.
- 1.2 It was originally proposed that the Council would submit a planning application and deliver the scheme. However, through feasibility work undertaken it became clear that a development on the whole of the site was not viable, recognising the existing site constraints and intent to deliver a policy compliant scheme with 40% affordable housing.
- 1.3 In 2023, the Council was approached by AMA Buchanan Investments Ltd. (ABI Ltd.) who own the site of the former Robin Hood Public House and have plans to redevelop their land for housing. They outlined that they were keen to purchase some of the Council's land (the lower level of the Bright Hill carpark and the Robin Hood car park see Appendix 1) to deliver a more

comprehensive scheme utilising the extent of the frontage on Sydenham Road.

- 1.4 Negotiations were progressed and in March 2024 ABI Ltd submitted an offer to purchase the sections of the Council's car parks that are situated either side of their site and at the same level. Subject to contract Heads of terms have been agreed (Exempt Appendix 2) for the sale of GBC's land conditional upon planning consent, a S123 best value valuation and Executive approval.
- 1.5 This report recommends that the Council progress with a sale to ABI Investments Ltd. for the land outlined at Appendix 1.

2.0 Recommendation to Executive

That the Executive resolves to:

- 2.1 Approve the sale, subject to planning permission being granted, of part of the Bright Hill Car Park and the Robin Hood car park to AMA Buchanan Investments Ltd, as set out in the Heads of Terms at (exempt) Appendix 2;
- 2.2 Approve the allocation of up to £250,000 of the capital receipt from the sale to be spent on ground stabilisation works to bring all the car park retained by the Council back into operation.
- 2.3 Approve £50,000 capital expenditure to cover the Council's costs associated with the sale, to be recovered from the Purchaser upon exchange of contracts.
- 2.4 Delegate to the Strategic Director Finance and Resources, in consultation with the Strategic Director of Democracy, Law and People and the Portfolio Holder for Finance and Assets, authority to procure, award and enter into all relevant contracts relating to the ground stabilisation works.

3.0 Reasons for Recommendations

- 3.1 The proposed transaction will deliver a capital receipt to the Council's Housing Revenue Account, whilst enabling the delivery of housing (including a percentage of affordable).
- 3.2 The transaction requires the construction of a retaining wall by the Purchaser, within their ownership, that will bring 24 car parking spaces back into operation and therefore deliver an uplift in income to the Council. The proposed investment of part of the capital

receipt into ground stabilisation works will further increase the number of operational car parking spaces across the remaining site.

4.0 Status of Report

4.1 Part Exempt.

Appendix 2 is to be treated as exempt for the purposes of the Council's Access to Information Procedure Rules because it contains commercially sensitive information and are therefore exempt by virtue of paragraph 3 of Part 1 of Schedule 12A to the Local Government Act as follows:

- Information relating to the financial or business affairs of any particular person (including the authority holding that information).
 - a) The content is restricted to all councillors.
 - b) It is likely that the exempt information can be expected to be made available once the sale of the land has been completed.

5.0 Strategic Priorities

5.1 The recommendations in this report align with the following strategic priorities within the Corporate Plan 2024 – 2034:

- A resilient and well-managed Council – the transaction will result in a capital receipt to the Housing Revenue Account that can be used to support the housing service. It will also maximise the income potential from the remaining car park site retained by the Council.
- Decent and affordable homes – the Purchaser intends to deliver news homes on the site in a sustainable town centre location. There is provision within the terms of the sale to ensure a minimum level of affordable housing is delivered.

6.0 Background

6.1 In July 2023, the Executive and Corporate Management Team received a briefing in respect of the feasibility and viability of the Council delivering a policy compliant housing scheme at Bright Hill car park. It was noted that the scheme was extremely challenging to progress given several development risks. These risks included the topography of the site, planning constraints, adjacent locally listed

buildings and the extent of stabilisation works required. Consequently, it was concluded that no further work would be progressed to explore the development of the site by the Housing Revenue Account (HRA). However, it was proposed that the car parks team should consider what work was required to return the whole of the site back to an operational state to maximise income generation.

- 6.2 In December 2023, the Council was contacted by ABI Ltd., who own the site of the former Robin Hood Public House. ABI Ltd wanted to explore the purchase of two pieces of land adjacent to their site that are at the same level. The sites being the Robin Hood Car park and the lower tier of the Bright Hill car park.
- 6.4 A formal offer was submitted to the Council in March 2024. The proposed Purchaser has developed a preliminary scheme for the enlarged site with 36 apartments and a basement car park. ABI Ltd.'s Robin Hood PH site was granted planning consent at appeal for a ground floor wine bar and 5 apartments above.
- 6.5 Heads of Terms with ABI Ltd were agreed and signed by the former Strategic Director of Place under delegation, noting that the progression of the sale is subject to contract, Executive approval and a satisfactory s.23 report as required by the Housing Act 1985 (as amended). Under the proposed terms, the Council will receive a substantial capital receipt for the land concerned, benefit from the delivery of a retaining wall to the rear of the site by the Developer, and the retention of income across the remainder of the Council's car park land. A portion of the capital receipt can be utilised to carry out further repairs to the car park to enable further spaces to be made operational and deliver an uplift on income compared to current day.
- 6.6 The proposed Purchaser has been progressing discussions with the Local Planning Authority (LPA) in relation to their anticipated scheme. They are now seeking confirmation through a formal Executive decision of the Council's intent to dispose of the land concerned, noting that this is one of the conditions of sale outlined within the Heads of Terms.

7.0 Options

- 7.1 Do nothing - The Council would retain the sites for car parking. The Robin Hood Car Park & Bright Hill Car Park currently provide c.79 operational car parking spaces. Some spaces are not operational because of structural issues relating to the terracing of the car park. Income in 2023/24 was £205,300 and the forecast for 2024/25 is £246,273. The Council is also liable to pay business rates of c.£55,000 per annum. This option does not make good use of a Council asset.
- 7.2 The income and Capital Value could be increased by bringing a further 60 spaces back into use at Bright Hill and two at Robin Hood. However, capital works would need to be undertaken to bring the site back into full operational use to achieve this level of income (previously estimated at c.£100k-150k). This option was previously discounted due to cost.
- 7.3 Do minimum - The Council could decide to sell the bottom section of Bright Hill (29 spaces) and Robin Hood car parks (23 spaces), with the sales condition that the developer implement edge protection remedials in the middle tier only. This would provide a capital receipt and 55 car parking spaces producing an estimated income of £171,456 p.a. This option, however, does not optimise the income potential of the retained Council car park asset.
- 7.4 Do something (Recommended) – The Council could decide to sell the bottom section of Bright Hill car park (29 spaces) and Robin Hood car park (23 spaces), implement edge protection remedial works between the middle tier and the upper tier of the car park at the Council's cost (estimate awaited). (The retaining wall works between the lower and middle tiers will be undertaken by the developer). This would provide a capital receipt to the Council and 89 car parking spaces producing an estimated income of £277,447 p.a. The HRA would be responsible for the capital expenditure for the additional remedial works. In return the car parking income, that will be payable to the HRA, would increase by an estimated £105,991 p.a.

This is the recommended option as it enables the delivery of homes, provides a capital receipt to the Council and maximises parking income.

- 7.5 Do most – The Council could decide to sell the Robin Hood car park and the entire Bright Hill car park to ABI Ltd. or another purchaser. A greater capital receipt could be achieved. The income generated from the car park would cease upon completion.
- 7.6 This option is likely to achieve a larger capital receipt. However, this approach will expose the Council to a high level of uncertainty by turning away the existing purchaser to offer the site in the open market.

8.0 Consultation

- 8.1 The Executive has received several updates privately on the proposed disposal including a more extensive briefing on 10 July 2024.
- 8.2 The cross-party Housing Delivery Board has been briefed at its quarterly meetings including, most recently, on 05 December 2024. Initially this covered the potential redevelopment of the whole site for housing by the Housing Revenue Account but has shifted to verbal updates on the proposed sale to ABI Ltd.
- 8.3 Ward Councillors Davis, Mills and Redpath have been consulted. Cllr Davis supports the proposal. At the time of publication of this report no comments have been received from Cllrs Redpath and Mills.
- 8.4 The Deputy Leader of the Council and Lead Councillor for Regeneration has been consulted and both support the proposal.
- 8.5 Lead Councillor for Finance and Property has been consulted and supports the proposal.

9.0 Key Risks

- 9.1 The main risks associated with this transaction are summarised below:

Name of Risk	Description	Mitigation Action
Planning Consent	The Local Planning Authority (LPA) does not grant planning consent for the proposed scheme.	The purchaser will hold Pre-App discussions with the LPA before a conditional contract for the sale of the land

		is executed.
Uncertainty in timescales	Obtaining a planning consent can be an uncertain process, sometimes requiring an appeal, with no certainty of outcome.	Work with the purchaser to agree a realistic timescale to be included in the contract. Carefully monitor progress on an ongoing basis and work with the Purchaser to give the best chance of a successful outcome within a controlled timescale.
Purchaser/Developers risks	The Purchaser will take on most of the risk of developing the site such as fluctuating in interest rates, sales prices, construction costs and other unknowns. Substantial fluctuation in the above this could lead the Purchaser renegotiating the contract or finding grounds to withdraw.	Robust contract (as much as possible). Work with the Purchaser through the process to monitor progress in the build-up to completion.

10.0 Legal and Governance Implications

- 10.1 The land under consideration for disposal is held within the Council's Housing Revenue Account. The car park was licenced (the licence has since expired) to the General Fund and hence the revenue from the car park has been paid to the General Fund account.
- 10.2 Local Authorities have the power to dispose of HRA land under s.32 of the Housing Act 1985. Under s.33 of the same Act, consent must be sought from the Secretary of State prior to disposing of land held in the Housing Revenue Account.

10.3 The Secretary of State published The General Consent for the Disposal of Land held for the purposes of Part II of the Housing Act 1985-2013, which grants general consent for the disposal of HRA land by Local Authorities in certain circumstances. Paragraph A3.1.1 allows a Local Authority to dispose of land for consideration equal to its market value providing none of the conditions in A3.1.2 apply.

10.4 So long as the land is being sold at market value, conditions in A3.1.2 do not apply because:

- a) the land is currently used as a car park and therefore is not subject to a secure, introductory, or demoted tenancy nor is there a reversionary interest.
- b) the identified purchaser is not a local authority nor does the Council hold any interest in the Purchaser company.

10.5 Section 33 of The Housing Act 1985 also allows local authorities to impose such covenants and conditions on sales of HRA land. However, certain conditions require Secretary of State consent, which are stated at s.33 (2) of the act. The Council intend to impose a condition on the sale of the land that if the land is sold on without development in the next ten years the council shall be entitled to a percentage of any profit made by the proposed buyer. As this condition does not limit the price or premium that may be obtained on a further disposal of the land, the council is acting in accordance with the act.

10.5 A S.23 report, as required by Housing Act 1985 (as amended), has been completed by Montagu Evans which confirms that the proposed sale of the freehold interest in the Site by the Council to the Purchaser, represent the best terms reasonably achievable and the consideration represents Best Consideration.

11.0 Financial Implications

11.1 The Heads of Terms at Appendix 2 outline the basis on which a sale of the Council's land to the Purchaser will progress but in summary this involves the following financial implications:

- Upon exchange of contracts the Purchaser will pay the Council's costs in progressing the transaction (up to a limit as set out in the HoTs) and a deposit of 10% of the purchase price.
- Upon grant of planning permission and completion of the sales contract, the purchase price (less deposit) will be paid.

A Section s.23 Report has been completed confirming that the proposed transaction represents the best terms reasonably achievable and the consideration represents Best Consideration.

- 11.2 It is anticipated that the Purchaser may secure planning consent by April 2026, which would allow completion in May 2026.
- 11.3 Car parking income, that currently accrues to the General Fund, will be impacted to differing extents following the completion of the transaction over a 12- 18-month period as follows:
- The sale of the land will result in the reduction of car parking income from £246,273 p.a. to £84,169 (a £162,104 reduction) for approximately 12 months whilst the Purchaser builds the new retaining wall. Once this is complete, there will be the potential to increase income to £171,456 (£78,817 less than current income levels).
 - If the Council (or the Purchase on the Council's behalf and at its expense) undertakes remedial works to the middle tier as recommended in this paper, it is estimated that car parking income would rise to £277,447 p.a. which is £31,174 more than the current income.
- 11.4 The recommendations in this paper are cost neutral to the Council upon delivery. There is, however, a risk that should the transaction not progress as planned, the Council's costs in progressing the sale to date will not be recovered. These costs are estimated to be c.£50,000, comprising project management, legal and valuation fees. Spend to date is £29,000.
- 11.5 A reconciliation exercise between the HRA and General Fund considering income and costs relating to the car park will need to be completed. However, this does not prevent the proposed transaction outlined in this report from progressing.

12.0 Human Resources Implications

There are no human resource implications. The disposal is being progressed by a consultant engaged by the Council and supported by other consultancy advice as report, for example the s23 Report. The cost of this resource will be recovered through the sums payable by the Purchaser on execution of the sales contract.

13.0 Equality and Diversity Implications

13.1 The disposal of the site to the developer and subsequent redevelopment works will result in a short-term loss of car parking provision. However, there are other Council owned car parks in the vicinity which remain operational.

13.2 Any future development delivered by the Purchaser will need to comply with relevant policies and regulations, notably Part M of The Building Regulations (2010) which relates to access to and use of buildings.

14.0 Climate Change and Sustainability Implications

14.1 Any future development will need to respond to building regulations and sustainability assessments such as Part L, Part O, CO2 emissions and overheating risk. These are formal assessments that the building must comply with to pass building control on design and on build.

14.2 There are no specific implications arising from the recommendations in this report which impact directly on the Council.

15.0 Next Steps

The sale of the asset to the proposed Purchaser will produce a capital receipt for the Council near the level estimated 2 years ago for the entire GBC land holding at Bright Hill and Robin Hood car parks. In addition, the proposed minimal capital investment will mean that the Council retains an operational car park that will generate an income in excess of current levels. On this basis, the recommendation is that the Council progress with the disposal outlined in this paper.

16.0 Background Papers

None.

17.0 Appendices

17.1 Appendix 1 _ Site Plan identifying land proposed for disposal.

17.2 Appendix 2 – EXEMPT. Heads of Terms between GBC and AMA Buchanan Investments Ltd.

Report clearance progress:

Finance	Richard Bates	17.12.2024
Legal & Governance	Trusha Lukha / Susan Sale	21.11.2024 / 30.12.24
Human Resources	Ali Holman	18.11.2024
Equalities	Ali Holman	18.11.2024
Strategic Director	Julian Higson	19.12.2024