

Council
24 August 2016

**Not for Publication by Virtue of Part I of Schedule 12a of the Local
Government Act 1972**

28/C Property Acquisitions

The Property Acquisition Strategy had been adopted in 2011 and amended in 2015 and 2016. It provided for the acquisition of strategically important assets which either promoted the delivery of the Council's key priorities or were important in assisting the long term economic wellbeing of the borough, or for housing. The Chief Executive had delegated authority to acquire property to the value of £2m and to discharge this delegation via the Land and Property Board.

Since 2010 the Council's strategic priority had been the regeneration of the Camberley Town Centre. The detailed aspirations were identified in the Camberley Town Centre Statement, the Council's Area Action Plan for Camberley and the Vision statements.

For a number of years the Council had worked with Capital and Regional (C&R), which owned a number of both freehold and long leasehold interests in the town centre, to create a new town centre vision for Camberley. However, it had become apparent that any major regeneration of the town centre was unlikely to proceed as it would not deliver the financial returns C&R's investors required. In the light of this situation an opportunity had recently arisen for the Council to acquire the Mall Shopping Centre and all other property interests in the town owned by C&R.

The proposed purchase represented a substantial investment for the Council and, in order to consider acquiring such an asset, an extensive due diligence process had been carried out. Urgent Action had also been taken under the Scheme of Delegation of Functions to Officers to authorise the procurement of the services of professional firms and to assess the proposal and whether it was in the Council's best interests to proceed.

Whilst an initial purchase price had been agreed in principle, based on the advice of the Council's property advisers Montagu Evans, this was subject to the outcome of the due diligence exercise which included confirmation of potential income generated from the lettings and the structural integrity of the asset. It was, therefore, possible that the final value might change before completion, although any adjustment was likely to be downwards. Based on the draft figures received so far, the purchase was estimated to make a net return, before borrowing costs, of 4.4%.

A substantial part of C&R's landholdings in Camberley were held in a Jersey Property Unit Trust (JPUT). It would therefore be necessary to acquire this interest along with other ordinary freehold interests. The Council's legal advisers and the external auditors had both confirmed that this interest could also be acquired, provided the governance arrangements were properly constituted to

address the unique requirements of this trust. A separate trust arrangement would be necessary so that the Council's decisions were ratified by the unit trust. The Land and Property Board could provide an adequate vehicle to discharge the legal requirements.

As the Council did not have the resources to fund this purchase it would need to be funded through external borrowing. This would most likely come from the Public Works Loans Board (PWLB). PWLB interest rates, which were only fixed when the borrowing was undertaken, were likely to be at 2.19%. Other ways of funding the purchase had been explored but, given the short time scales involved, these were likely to be impractical.

The repayment period would depend on the prevailing view as to the level of interest rates at the time the loan was taken. However, assuming the purchase was funded by a 50 year PWLB loan, the net return after interest would be 2.2%, which was above the 2% specified in the Property Acquisition Strategy.

As the position was changeable it was proposed to authorise the Executive Head of Finance to decide how the purchase should be funded based on the available rates at the time that the borrowing was required.

It was noted that the Prudential Regulations stipulated that, not only should the Council be able to cover the interest on any money it borrowed, it also had to make a "Minimum Revenue Payment" (MRP) against revenue for the capital repayment of the loan on an annual basis. This was to ensure that loans could be repaid and did not fall on future taxpayers. Based on a fixed 50 year fixed annuity loan this would require a capital repayment out of revenue of just over £1m in the first year.

In order to ensure that the investment remains financially viable, it was essential to ensure that the shopping centre and Camberley remain attractive to potential investors and retailers. This would mean undertaking the long overdue refurbishment of the centre and advancing the other Camberley Town Centre improvements, subject to satisfactory business cases. Members were informed that, were all these schemes to be undertaken, the Council's total borrowing could rise to £150m.

The Council was required to set its prudential indicators so that the borrowing it undertook was affordable and approved. The new indicators reflected the estimated total borrowing requirement, based on current knowledge.

Queen's Counsel's Advice had confirmed that the Council had the necessary powers to acquire and manage the assets including the power to borrow to invest in this proposal. In addition, the Council's external auditors had also been asked to scrutinise the proposal to ensure it was a sound proposition and within the Council's powers to achieve.

Whilst there were clear benefits in acquiring these interests, there were a number of potential risks associated with the proposed acquisition, both at the point of acquisition and in the longer term. These included increases in interest rates, the

cost of specialist advisers, losses relating to empty properties, rent reductions and non-payment, reputational risks and the usual development risks.

Members considered the options available, which were to either support the acquisition of C&R's interests in the Town Centre, or choose not to support this purchase. It was recommended that the acquisition be pursued as it would provide significant regeneration and economic development benefits. Whilst there were risks associated with such an acquisition, these could be mitigated through due diligence and effective management of the Centre, using expert asset and property management.

It would be essential to maintain rental income and to ensure that the property was managed in a commercial and professional manner. This would mean not only the appointment of a professional company to manage the property, but also additional in-house resources in relation to property, legal, finance and planning necessary to support a new function. There would also be costs in relation to advertising and marketing which would not form part of the service charge.

As part of the transfer of ownership, staff currently employed by C&R would be the subject of the Transfer of Undertakings Protection of Employment Regulations. However, as the Council would be employing expert asset and property managers to manage the day to day operations, it had been agreed, in principle, that staff would transfer to the asset and property manager's organisation rather than the Council. There would be a formal detailed property management agreement with the agents, which would be reviewed following 18 months of operation.

It was proposed that the Chief Executive would discharge the day to day management functions for the town centre through a combination of officer delegations, managing agent responsibility and Land and Property Board strategic decision making. These would be formally set out in the legal documentation and the Property Management Agreement. The Land and Property Board would discharge this function acting as consultee to both the Council and the Jersey Property Unit Trust, via managing agents.

It was moved by Councillor Moira Gibson and seconded by Councillor Brooks and

Resolved that

- (i) the acquisition of the Mall Shopping Centre and all other property interests held by Capital and Regional in Camberley Town Centre be approved on the basis that such acquisition will provide better control of the future of the town centre and further the Council's key priority to regenerate the Camberley Town Centre for the benefit of the Council's area;**
- (ii) the Chief Executive be authorised to complete the due diligence work currently being undertaken and thereafter, in consultation with the Land and Property Board be further authorised to complete the acquisition of all Capital and Regional's property interests in Camberley Town**

Centre, after taking all appropriate legal, valuation and technical advice;

- (iii) the Chief Executive, in consultation with the Land and Property Board and after taking appropriate legal and technical consultancy advice, enter into any legal documentation necessary to acquire all interests of the town centre owned by Capital and Regional and any miscellaneous documentation and legal structures required to achieve a transfer of ownership;**
- (iv) the urgent action taken by the officers in consultation with the Leader and Chairman of Performance and Finance Scrutiny Committee, to urgently instruct professional advisors to assist with the acquisition of these interests and the investment, be noted;**
- (v) the Capital Programme be increased by the total amount shown in Annex B to the agenda report to reflect the estimated total costs of this acquisition;**
- (vi) the Prudential Indicators as set out in Annex C to the agenda report be approved and that actual financing of borrowing undertaken be delegated to the Executive Head of Finance in consultation with the Portfolio holder for Finance; and**
- (vii) the Chief Executive in consultation with the Leader and Portfolio Holder for Finance be authorised to create a revenue budget in 2016/17 for this acquisition and to recruit staff and contractors as required.**

(Note: In accordance with Council Procedural Rule 17.4 a roll call vote was taken; the voting being as follows:

For the motion: Councillors Dan Adams, David Allen, Richard Brooks, Nick Chambers, Bill Chapman, Mrs Vivienne Chapman, Ian Cullen, Craig Fennell, Surinder Gandhum, Moira Gibson, Edward Hawkins, Josephine Hawkins, Paul Ilnicki, Rebecca Jennings-Evans, David Lewis, Oliver Lewis, Jonathan Lytle, Bruce Mansell, David Mansfield, Charlotte Morley, Max Nelson, Adrian Page, Robin Perry, Chris Pitt, Nic Price, Wynne Price, Darryl Ratiram, Ian Sams, Pat Tedder, Joanne Potter, Valerie White, and John Winterton.

Against the motion: Councillors Rodney Bates and Ruth Hutchinson.

Abstention: Councillor Victoria Wheeler)

Note 1: Reason Restricted: Paragraph 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information)

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