

Report Title:	Sale of Retail/House in Cookham
Contains Confidential or Exempt Information	Report and Appendices A&B Part I Appendices C&D Part II Not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.
Cabinet Member:	Councillor Andrew Johnson - Cabinet Member for Business, Economic Development & Property
Meeting and Date:	Cabinet – 16 <sup>th</sup> December 2021
Responsible Officer(s):	Duncan Sharkey – Chief Executive
Wards affected:	Bisham and Cookham

## **REPORT SUMMARY**

*13 Hillcrest Avenue is a small shop attached to residential property and was leased to the tenants on a 99-year lease from 4 April 2001 at a peppercorn rent.*

*Terms have been agreed to sell the freehold interest in the property to the tenant for a sum of £190,000. If the property is redeveloped within 20 years, the Council would receive 30% of the uplift in value.*

*Under the Council's Scheme of delegation Cabinet approval is required for disposals in excess of £100,000.*

*The disposal is recommended for approval*

## **1. DETAILS OF RECOMMENDATION(S)**

**RECOMMENDATION:** That Cabinet notes the report and:

- i) Approves the sale of the freehold interest in 13 Hillcrest Avenue.**
- ii) Delegates authority to the Chief Executive in consultation with the Cabinet Member for Business, Economic Development & Property to negotiate the legal contracts required to complete the transactions.**

## 2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

### Options

**Table 1: Options arising from this report**

Option	Comments
Sell the freehold to the tenants.  <b>This is the recommended option</b>	The Council receives the capital receipt, and the tenant can plan.
Do not sell the freehold to the tenant.	No capital receipt is received, and the tenant may come back later to seek amendments to the lease.

- 2.1 13 Hillcrest Avenue is a 3 bedroom detached house with a small shop attached. The welfare facilities of the shop (i.e., toilet and kitchen) are shared with the house. The shop is in a secondary retail location on a former Council housing estate in Cookham. The shop does not benefit from passing trade and most of the customers reside locally to the shop. A location plan and photographs are included in Appendix A.
- 2.2 The tenants are in occupation having entered the lease for a term of 99 years from 4th April 2001 at peppercorn rent. The Tenant paid a premium of £60,000 to the Council to purchase the lease when the lease was entered into in 2001. One of the tenants is a ward Councillor for Bisham and Cookham, but has not been directly involved with the negotiations to purchase the lease.
- 2.3 The lease limits the use to a shop with attached residential accommodation. The Council's consent is required if the residential and retail parts were to be separated. A further condition of the lease is that if the shop is closed for a period of 3 months or more the Council can terminate the lease and the tenants would lose their home as well as their livelihood. To protect their future, the tenants have requested to purchase the freehold and terms have been agreed as follows:
- A purchase price of £190,000 for the freehold of 13 Hillcrest Avenue.
  - If the property is redeveloped within 20 years of completion of the purchase the Council shall receive 30% of the increase in value following the redevelopment.
  - Each side to pay their own legal costs.

## 3. KEY IMPLICATIONS

- 3.1 The proposed sale of Council's interest provides the Council with a windfall capital receipt with no loss of rental income. In addition, the development value clawback provision enables the Council to benefit from any future redevelopment.
- 3.2 There is a risk that the sale of the freehold could hasten the closure of the shop because the lease provides a keep open clause for the shop. The tenants have no immediate plans to close the shop but recognise that

changing shopping habits and economic considerations beyond their control could lead to them being in breach of the lease through no fault of their own. The capital receipt is largely intended to buy out this uncertainty for the tenant.

- 3.3 Cookham benefits from significant attractive retail and hospitality provision close to the rail station that are within half a mile from the property.

**Table 2: Key Implications**

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Sale completes		Sale price of £190,000 secured			31 <sup>st</sup> March 2022

#### **4. FINANCIAL DETAILS / VALUE FOR MONEY**

- 4.1 The property was last valued for asset valuation purposes on 25<sup>th</sup> of October 2021. The value of the Council's interest was nominal given the property will produce no income to the Council until the lease expires in 2100.
- 4.2 The lease contains a keep open clause that if breached could see the Landlord terminate the lease which reduces the value of the tenants' leasehold interest as the perceived risk would reduce the attractiveness of the property to potential buyers of the lease. Therefore, a sale to the current tenants will produce the best value for the Council as it will release marriage value, and this is reflected in the agreed price.
- 4.3 The agreed terms include an overage payment based on one third of the price that the land is sold for. This is the element that could bring an additional capital receipt to the Council.
- 4.4 Further commentary of the valuation of the Council's interest and the terms of the sale is contained in Appendix C which is Part II and not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.
- 4.5 An external valuation has been undertaken by Kempton Carr Croft acting as an independent valuer. The valuation report confirms the agreed price offers fair value to the Council. A copy of the valuation report is contained in Appendix D which is Part II and not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.
- 4.6 The table below summarised the financial implications of the transaction.

**Table 3: Financial impact of report's recommendations**

REVENUE COSTS	2021/22	2022/23	2023/24
Additional total	£0	£0	£0
Reduction	£0	£0	£0
Net Impact	£0	£0	£0

<b>CAPITAL COSTS</b>	<b>2021/22</b>	<b>2022/23</b>	<b>2023/24</b>
Additional total	£0	£0	£0
Reduction	£190,000	£0	£0
Net Impact	£190,000	£0	£0

## **5. LEGAL IMPLICATIONS**

- 5.1 RBWM has the power of dispose of land in its ownership under section 123 of the Local Government Act 1972 provided the land is sold at a consideration not less than the best that could reasonably be obtained.
- 5.2 A sale to anyone other than the tenant would produce a lower price, due to the restrictions on the lease, and so the agreed terms offer the best consideration reasonably obtainable for the Council under the terms of section 123 of the Local Government Act 1972.

## **6. RISK MANAGEMENT**

- 6.1 There is little or no risk to the Council in completing this transaction.

**Table 4: Impact of risk and mitigation**

<b>Risk</b>	<b>Level of uncontrolled risk</b>	<b>Controls</b>	<b>Level of controlled risk</b>
Transaction does not proceed	Low	Tenant benefits by completing.	Low

## **7. POTENTIAL IMPACTS**

- 7.1 Equalities. An Equality Impact Assessments screening form has been completed and is available on the [council's website](#)
- 7.2 Climate change/sustainability. N/A
- 7.3 Data Protection/GDPR. No personal information has been used or stored.

## **8. CONSULTATION**

- 8.1 Internal consultation with CLT and Cabinet Member. Report also taken and discussed with Capital Review Board and approved.

## **9. TIMETABLE FOR IMPLEMENTATION**

- 9.1 Implementation date if not called in: Immediate. The full implementation stages are set out in table 5.

**Table 5: Implementation timetable**

Date	Details
8 <sup>th</sup> December 2021	Instruct solicitors to prepare sale agreement
31 <sup>st</sup> March 2022	Conclude legal process and complete sale

## 10. APPENDICES

10.1 This report is supported by 4 appendices:

- Appendix A – Location Plan and Photographs
- Appendix B – Title Plan
- Appendix C – Valuation Commentary – Part II Not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.
- Appendix D – Kempton Carr Croft Valuation Report – Part II Not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

## 11. BACKGROUND DOCUMENTS

There are no background documents

## 12. CONSULTATION

Name of consultee	Post held	Date sent	Date returned
<i>Mandatory: Statutory Officers (or deputy)</i>			
Adele Taylor	Executive Director of Resources/S151 Officer	24/11/21	07/12/21
Emma Duncan	Deputy Director of Law and Strategy / Monitoring Officer	24/11/21	28/11/2021
<i>Deputies:</i>			
Andrew Vallance	Head of Finance (Deputy S151 Officer)	24/11/21	
Elaine Browne	Head of Law (Deputy Monitoring Officer)	24/11/21	
Karen Shepherd	Head of Governance (Deputy Monitoring Officer)	24/11/21	
<i>Other consultees:</i>			
<i>Directors (where relevant)</i>			
Duncan Sharkey	Chief Executive	24/11/21	25/11/2021
Andrew Durrant	Executive Director of Place	24/11/21	29/11/2021
Kevin McDaniel	Executive Director of Children's Services	24/11/21	

Hilary Hall	Executive Director of Adults, Health and Housing	24/11/21	25/11/2021
<i>Heads of Service (where relevant)</i>			
N/A			
<i>External (where relevant)</i>			
N/A			

Confirmation relevant Cabinet Member(s) consulted	Cabinet Member for Business, Economic Development & Property	Yes
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## REPORT HISTORY

<b>Decision type:</b>	<b>Urgency item?</b>	<b>To follow item?</b>
First entered the Cabinet Forward Plan: 15 <sup>th</sup> September 2021	No	No

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## Appendix A

### Location Plan and Photographs – 13 Hillcrest Avenue, Cookham





## 13 Hillcrest Avenue, Cookham







13 Hillcrest Avenue  
Cookham Rise  
Berks SL6 9NB

Disposal Plan

Drawing No:  
EO2271

OS SU8884 nw

**Royal Borough Of Windsor and Maidenhead**

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