

# OPTION TO PURCHASE CAR PARK, RAMSGATE

<b>Overview &amp; Scrutiny Panel</b>	10 December 2024
<b>Report Author</b>	Andreea Plant (Head of Property)
<b>Cabinet Portfolio Member</b>	Cllr Ruth Duckworth, Cabinet Member for Regeneration and Property
<b>Status</b>	For Decision
<b>Decision classification</b>	Unrestricted
<b>Key Decision</b>	Yes
<b>Previously Considered by</b>	Cabinet 31/1/2017
<b>Ward:</b>	Central Harbour

## Purpose of the Report

The purpose of this report is to invite members of the Overview and Scrutiny Panel to scrutinise, note and comment on the proposal that Cabinet approve exercising the next available option to purchase the leasehold interest of Royal Harbour Multi-storey car park, Ramsgate, which the council occupy under a financing lease entered into in 1977, with 48yrs unexpired. The lease contains a tenants option to purchase the leasehold interest, at certain trigger points, the next is in 2025. Exercising the option will have an improved long term budgetary impact for the council.

## Recommendation(s):

Members of the Overview and Scrutiny Panel are asked to:

1. Note and scrutinise the report and consider any appropriate recommendations to Cabinet in advance of its meeting on 19 December 2024.
2. Note and comment on the proposed recommendations to Cabinet, as follows:
  - i. Approve exercising the option to purchase the leasehold interest in Royal Harbour Multi-storey car park, Ramsgate at the next available option trigger date and finances the purchase from borrowing.

## 1. Summary of Reasons

- 1.1 Exercising the option to purchase would reduce the council's long term costs by a significant sum. It would give the council greater flexibility to consider how it uses the asset and its future.

- 1.2 The annual cost of financing the purchase is estimated to be less than the annual rent payable to the landlord, which escalates on each rent review cycle, and will give the council greater financial certainty.

## **2. Background**

- 2.1 As part of the financing arrangement for the construction of Leopold (Royal Harbour) multi-storey car park in the 1970's, the council owned site in Leopold Street was leased to a finance company. The finance company funded the construction of the multi-storey and then leased it back to the council, thereby recouping their investment in the form of rents.
- 2.2 The lease term is 1975-2073 and there are no break options. The commencing rent was £32,000 pa in 1975. The rent is to be reviewed every 5 years by applying a construction price index (CPI) formula. The current rent payable is £227,189 pa (exclusive). The next rent review is in July 2025 and, based on estimated CPI figures, it is conceivable that the rent payable to the landlord will exceed £300,000 pa at the next review. The lease provides, amongst other things, for the tenant to keep the property in good and substantial repair. The permitted use is a public car park. Construction prices have increased over the last 5 years and declines are not currently forecast.
- 2.3 This matter was considered by Cabinet in 2017, which resolved (minute 405) to exercise the option to purchase both Mill Lane and Leopold multi-storey car parks. While Mill Lane was successfully purchased, the option to purchase Leopold was not able to be exercised in 2020, as the lease terms for this lease were different therefore, 2020 was deemed not an eligible period with the first eligible period to exercise the option to purchase Leopold multi-storey car park being between 28/07/2025 and 27/07/2026.
- 2.4 Under the terms of the 1977 lease agreement, the tenant has the option to purchase the landlords leasehold interest on 5 yearly trigger dates, the next being in July 2025. The lease stipulates that the cost of purchase shall be 12 times the rent passing. This figure is estimated to be £3,626,976 + VAT. Stamp duty land tax would be due on the purchase price but the VAT would be recoverable, providing that the property continues to be used as a car park. The council would also need to undertake due diligence on the purchase in terms of legal and survey work. The estimated purchase figure is based on current CPI forecasts and may be subject to change.
- 2.5 The option provides for notice to be served within a 12m period commencing 28 July 2025 and completion of the purchase is to take place no later than six weeks after service of the option notice.
- 2.6 The council could fund the purchase and on-costs by borrowing or from existing treasury balances until favourable long term borrowing rates are available. The total cost of repayment and interest, over the comparable lease term, is forecast, by treasury advisors, to reduce to around 4.5% in 25/26, making the forecast cost of borrowing £265,000 pa. £3m capital has already been allocated through the Capital

Bid process previously, therefore a further capital bid would be required for the additional £1m, should Cabinet approve exercising the option.

2.7 If the rent were to remain at the forecast review level of £302,248 pa, (which it would not) for the 48yr remaining lease term, the cost to the Council would be £14,507,904 in rent payments. If the option to purchase is exercised the loan and interest costs would be £12,725,088 in total, providing a saving of £1,782,816 over the same number of years as the unexpired lease.

2.8 If the rental growth rate experienced over the recent reviews is applied for the remainder of the lease, it is estimated that the total rental payments due could amount to £27,641,838 over the 48 year period. The financial saving in purchasing the landlord's interest, to the Council under this scenario, could be £14,916,750.

### **3. Relevant Issues**

3.1 Purchasing the interest would provide TDC with cost certainty in terms of fixed interest and repayment of loan terms, rather than continuing with the lease arrangement, whereby the Council will have no control over increasing rents and when work is required to be undertaken to the car park.

3.2 The Council would also have the flexibility to consider alternative uses or redevelopment of the site in the future, and potentially benefit from capital appreciation.

3.3 The car park currently runs at a loss of over £100,000 pa. There has been no budget allocated for any potential uplift in rent at the next rent review in July 2025. Based on forecast CPI figures, an additional £75,000 pa budget could be required just to meet the rental obligations in the lease, if the option to purchase is not exercised.

### **4. Alternative Options**

4.1 The council could decide not to exercise the option to purchase in 2025 or defer the option. There are further options at 5 yearly intervals for the remainder of the lease term i.e. 2030, 2035.

### **5. Consultation**

5.1 There is no statutory or public law duty to consult in relation to this decision.

### **6. Corporate Implications**

#### **6.1 Finance and Resources**

- 6.1.1 The financial implications of this decision are addressed in the body of this report, specifically highlighting that £3m of the required funding is already allocated within the agreed Capital Programme.
- 6.1.2 Any additional borrowing associated with this project can be contained within the existing budget for lease payments meaning that this proposal has the capacity to deliver significant long term benefits to this organisation.

## **6.2 Legal and Constitutional**

- 6.2.1 In accordance with the provisions set out in Article 6 of the Council's constitution the Overview and Scrutiny Panel may make reports or recommendations to Cabinet in respect of the discharge of any function. Cabinet must then consider and respond to any recommendations made.
- 6.2.2 The Council has the power to acquire Land by virtue of a number of statutory provisions. Section 1 of the Localism Act 2011 confers on the Council, the General Power of Competence. This is the power to do anything an individual can do unless specifically prohibited by legislation. Section 111 of the Local Government Act 1972 gives the Council power to do any thing (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) to facilitate, or which is conducive or incidental to, the discharge of any of its functions. Further, section 120 Local Government Act 1972 provides that the Council is able to acquire land inside or outside its area by agreement, either generally for the purposes of its functions or for the benefit, improvement or development of its area.
- 6.2.3 Section 12 of the Local Government Act 2003 provides a general power to invest. In addition to the statutory provisions, there remains the Council's fiduciary requirement in relation to value for money and best price and the Council would need to exercise due diligence in completing any purchase.
- 6.2.4 The Council's in-house legal department should be consulted in relation to the freehold purchase mechanism contained within the lease.

## **6.3 Council Policies and Priorities**

- 6.3.1 It is considered that exercising the option to purchase supports the corporate priority of;
- To work efficiently for you

The purchase will put the council in an improved financial position and have greater flexibility to decide upon the assets future.

## **6.4 Risk**

- 6.4.1 Actual CPI figures differ from current forecasts which would impact the 2025 rent review figure and therefore the specified purchase price. The risk could be managed by continued monitoring of the index until trigger date.
- 6.4.2 Due diligence work undertaken for the purchase identifies additional cost or encumbrance.

- 6.4.3 Cost of borrowing rate increases, before option to purchase trigger is exercised.
- 6.4.4 The landlord challenges the exercise of the option. Legal due diligence would mitigate this risk.
- 6.4.5 That Council do not approve the additional Capital required to exercise the option through the Capital bid process in February.

## **6.5 Climate Change and Biodiversity**

- 6.5.1 The decision is financial and the impact on climate change and biodiversity are therefore considered to be neutral.

## **7. Equality, Equity and Diversity Implications**

- 7.1 There are currently no equality, equity and diversity implications identified for the subject matter.

## **8. Crime and Disorder Implications and Community impact**

- 8.1 There are currently no crime and disorder implications and community impact issues identified for the subject matter.

## **9. Subject History**

- 9.1 This matter was first considered by Cabinet on 31 January 2017 (Minute 405). The Council's Property Working Group considered the option at its meeting on 24 September 2024 and resolved to recommend that Cabinet approve the proposal.

## **Appendices**

None

## **Background Papers**

None

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### **Report Sign Off**

**Legal** Ingrid Brown (Head of Legal and Democracy & Monitoring Officer)  
**Finance** Matthew Sanham (Head of Finance and Procurement)