

WAVERLEY BOROUGH COUNCIL

VALUE FOR MONEY & CUSTOMER SERVICE OVERVIEW & SCRUTINY COMMITTEE

18 FEBRUARY 2019

EXECUTIVE - 12 MARCH 2019

Title:

PROPERTY MATTER – SALE OF FREEHOLD

**[Portfolio Holder: Ged Hall]
[Ward Affected: Farnham Castle]**

Note pursuant to Section 100B(5) of the Local Government Act 1972

An Annexe to this report contains information by virtue of which the public is likely to be excluded during the item to which the report relates, as specified in the following paragraphs of Part I of Schedule 12A to the Local Government Act 1972, namely:

Paragraph 1 Information relating to an individual

Paragraph 3 Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Paragraph 5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Summary and purpose:

The long leaseholders of a Council-owned property in Farnham have served a notice on the Council under the Leasehold Reform Act 1967 (“the 1967 Act”) to purchase the freehold of the house and premises. Leaseholders have a legal right under the 1967 Act to buy the freehold of their house if they meet certain qualifying criteria. If the leaseholder qualifies under the 1967 Act and follows the correct procedure they can force the freehold owner to sell them the freehold.

The purpose of this report is to seek Council approval to sell the freehold to the current leaseholders on the terms set out in the Exempt Annexe 1.

How this report relates to the Council’s Corporate Priorities:

This report relates to the Council’s Corporate Priorities of “People” and “Prosperity”. This is a statutory process that the Council (as freehold owner) must follow. An independent, specialist valuation was obtained to ensure the Council achieves best value in relation to the sale of freehold.

Financial Implications:

The proposed terms of the sale of the freehold are set out in Exempt Annexe 1.

An independent, specialist valuation has been obtained to ensure the Council achieves best value in relation to the sale of freehold.

If the proposed terms are not agreed, and in the unlikely event the leaseholders chose not to pursue the purchase using statutory powers during the course of the remaining term, the Council will be obliged to renew the lease at the end of the current lease, in 2192.

Legal Implications:

The leaseholder served a Notice on the Council under the Leasehold Reform Act 1967 (“the 1967 Act”) to purchase the freehold of the house and premises. Leaseholders have a legal right under the 1967 Act to buy the freehold of their house if they meet certain qualifying criteria. If the leaseholder qualifies under the 1967 Act and follows the correct procedure they can force the freehold owner to sell them the freehold.

This is a statutory process and the Council has no grounds on which to object if it wishes to avoid lengthy and expensive Court action. The process for determining the premium is set out in the legislation. Please see the body of report for further details (“Legal Position”).

Introduction

1. On 13 April 2018, the Council received a notice from the long leaseholders of a Council-owned property in Farnham (“the Property”) requesting to purchase the freehold of the property. Under the Leasehold Reform Act 1967, the Council has no grounds to object.
2. The terms agreed with the leaseholders for the freehold sale falls within officers’ delegated powers; however, due to the prominence of the site and its unusual lease history (set out in Exempt Annexe 1), the Head of Customer and Corporate services has referred the matter to the Executive to agree.
3. Under the 1967 Act, the landlord must serve a notice in reply to the original notice. The response notice was served on 4 July 2018 along with a “without prejudice” offer to sell the freehold land on the terms set out in Exempt Annexe 1.
4. A Plan of the Property is enclosed at Exempt Annexe 2. Under the terms of the lease The Council has responsibility to maintain the access road, as this is outside the demised area, this responsibility will remain with the Council.

Legal Position

5. Specialist legal advice was sought following receipt of the notice. As this is a specialist area of law, Bishop and Sewell LLP were instructed as they have a team dedicated to leaseholder enfranchisement.
6. As background, the 1967 Act enables tenants of houses held on long leases at “low rents” to acquire the freehold or an extended lease. The tenancy is treated at a “low rent” in accordance with section 4 of the 1967 Act because in the case of the Property, the annual rent payable under the tenancy is less than £250.00. The solicitors acting for the Council confirmed that the leaseholders meet the qualifying criteria under the 1967 Act to request a sale of the freehold.

7. Under The Leasehold Reform Act 1967, a tenant of a leasehold house is entitled to enfranchise (request the freehold sale) of the house and premises. "Premises" include any garage, outhouse, garden, yard and appurtenances which at the time of the notice are let to the tenant with the house. "Appurtenance" essentially means something ancillary to the Property and would include any right or restriction that runs with the Property.

Recommendation

That the Value for Money & Customer Service Overview & Scrutiny Committee notes the content of the report and the Exempt Annexes, and the options available to the Council, and agrees any comments to be passed to the Executive on the recommendation to follow Option 1 which is the sale of the freehold land on the terms set out in Exempt Annexe 1.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

CONTACT OFFICER:

Name: Caroline Wallis

Telephone: 01483 523314

E-mail: caroline.wallis@waverley.gov.uk