

29 November 2016

Policy, Finance and Resources Committee

Transfer of Housing Revenue Account Shops (HRA) to General Fund.

Report of: *John Chance, Finance Director*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

- 1.1 This report seeks approval for the transfer of the shops portfolio, including any flats above the shops, from the Housing Revenue Account (HRA) to the General Fund (GF). The portfolio comprises of 28 shops which are no longer used for the housing purposes for which they were originally acquired.

2. Recommendation(s)

It is recommended that the Finance, Policy and Resources Committee agrees:

- 2.1 That the HRA shops portfolio including any flats above the shops to be transferred to the General Fund.**
- 2.2 For officers to apply for consent from the Secretary of State to transfer any flats above the shops from the HRA to the General fund.**

3. Introduction and Background

- 3.1 At 31 March 2015 the Council owned 2,496 dwellings, 1,095 garages and car spaces and 24 shops that were accounted for in the HRA.
- 3.2 International Financial Reporting Standards (IFRS) require that these properties are categorised according to the purposes for which the Council holds them. As part of the Council's continuous review of its assets, some properties have been identified where the Council's reason for holding them has changed since the original acquisition, which requires that these properties be moved from one class of assets to another.

- 3.3 Where the purpose for holding a property is not related to the provision of housing under Part II of the Housing Act 1985, the property cannot be held within the Housing Revenue Account (HRA). If a property is currently held with the HRA, usually as a result of being originally acquired or constructed under Housing powers, it must be transferred (“appropriated”) to the General Fund.
- 3.4 The shops have remained in the HRA as a result of being acquired using housing powers. The shops were originally provided as part of neighbourhood development but no longer contribute to the achievement of a housing objective. Some of the leases include the flats above the shops.
- 3.5 The right to buy policy (where tenants can purchase their council home from the council at a discounted price) means that an increasing proportion of properties on the Council’s housing estate are occupied by leaseholders or private tenants of leaseholders rather than Council housing tenants which was the case when estates were originally built. This means that the shops are no longer supplied solely for the neighbourhood of the housing tenants.

4 Issue, Options and Analysis of Options

- 4.1 The shops currently sitting in the Housing Revenue Account (HRA) were originally provided as part of neighbourhood development. These shops are now let on a purely commercial basis, and are not there to meet the need of HRA tenants. There are also 18 flats above the shops of which 9 are included as part of the leases to the shops.
- 4.2 The list of shops that are being proposed for transfer are outlined in Table 1.

Table 1 – List of HRA and Annual Rental Income

Shop Address
26 Copperfield Gardens
36 Copperfield Gardens
2 Harewood Road
4 Harewood Road
6-8A Harewood Road
1 The Keys Eagle Way
2 The Keys Eagle Way
3 The Keys Eagle Way
4 The Keys Eagle Way
5 The Keys Eagle Way
6 The Keys Eagle Way
7 The Keys Eagle Way

8 The Keys Eagle Way
9a The Keys Eagle Way
9b The Keys Eagle Way
9c The Keys Eagle Way
9d The Keys Eagle Way
10 The Keys Eagle Way
70 Orchard Avenue
114 Orchard Avenue
120 Orchard Avenue
1 Rayleigh Parade
2 Rayleigh Parade
3 Rayleigh Parade
4 Rayleigh Parade
5 Rayleigh Parade
6 Rayleigh Parade
48/50 Blackmore Rd
Total Annual Income £178,874

Financial Effect of Transfer

- 4.3 The transfer of assets from the HRA to the General Fund implies that the rental income will be accounted for in the General Fund. The approximate revenue impact to the General fund could be a net gain of £54k after allowing for the MRP of £125k as explained under financial implications.

5 Reasons for Recommendation

- 5.1 To comply with legislation, the shops should be transferred from the HRA to the General Fund. As 9 of the leases include the flats above and 2 further flats are Council owned, it would be prudent to transfer the flats to the General Fund.

6 References to Corporate Plan

- 6.1 Good financial and asset management underpins all priorities within the Corporate Plan.

7 Implications

Financial Implications

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- 7.1 Best practice determines that the shops are General Fund properties based on the current nature of the assets. Furthermore, where an asset is held to achieve a return for capital appreciation as in the case here, the correct classification is investment property.

- 7.2 The decision to transfer between the HRA and General Fund, transfers the risks and rewards of the shops from the HRA to the General Fund. The maintenance and managing of the shop portfolio will be the responsibility of the General Fund and any works required will reduce the net impact to the revenue received.
- 7.3 Asset transfers between the HRA and General Fund are dealt with by means of Capital Financing Requirement (CFR) adjustments.
- 7.4 The General Fund CFR will be increased by the equivalent amount of the valuation of the shop portfolio. The cost of servicing the debt will be met from the income generated by the assets, as the properties will be considered to be investment properties. However, they will not be subject to a depreciation charge, but instead will be subject to annual revaluations.
- 7.5 The Council will need to revisit its Minimum Revenue Provision (MRP) policy in order to calculate the MRP provision needed on the transfer of shops. The approximate MRP cost to the General fund could be £125k.

Legal Implications

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- 7.6 Section 122 of the Local Government Act 1972 provides that the Council may appropriate for any purpose which the Council is authorised to acquire land, any land which belongs to the Council and is no longer required for the purpose for which it is held immediately before appropriation.
- 7.7 Section 19 (2) of the Housing Act 1985 provides that the Council shall not appropriate land held for the purposes for Part II of the 1985 Act without the consent of the Secretary of State if any part of the land consists of a house or part of a house for any other purpose. As the flats fall under this category, permission will be required from the Secretary of State to transfer the flats from the HRA to the General Fund.
- 7.8 For the shops as proposed in this report, Section 19(2) of the 1985 Act has no relevance as the land to be appropriated to the GF does not consist of a house or part of a house. To appropriate the shops from the HRA to the GF, the Council will rely on the power in Section 122 on the 1972 Act. In order to avail itself of the appropriation power, the Council needs to be able to confirm that the land is no longer required for the purpose for which it was held immediately before the appropriation.
- 7.9 Given the circumstances of the report and the mix of tenures that have arisen through, the 'right to buy' scheme, other changes in tenure and the

commercial lease of the shops, transferring the shops from the HRA to the GF would not be an unreasonable position to take.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

7.10 **Asset Management** – The General Fund will manage the shop portfolio and will bear the risks and rewards of the shop portfolio.

8 Appendices to this report

None

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