

**Cheltenham Borough Council**  
**Cabinet – 12th July 2022**  
**Lansdown Place Lane Car Park**

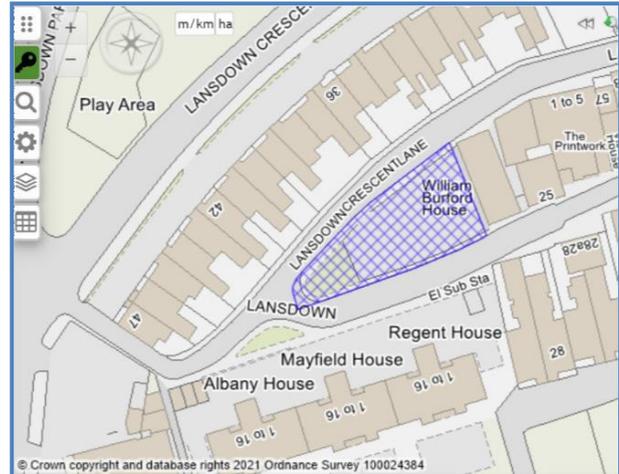
<b>Accountable member</b>	<b>Councillor Peter Jeffries, Deputy Leader and Cabinet Member Finance &amp; Assets</b>
<b>Accountable officer</b>	<b>Gemma Bell, Director of Finance &amp; Assets (Deputy s.151 Officer)</b>
<b>Ward(s) affected</b>	<b>Lansdown</b>
<b>Key/Significant Decision</b>	<b>Yes</b>
<b>Executive summary</b>	<p>The council own the freehold to land at Lansdown Place Lane, which extends to c.0.084 hectare (0.2 acre) and is currently used as a public car park and public realm (with part falling under the adjoining adopted highway). The car park is currently underutilised; it is projected to deliver around £700 of income in FY21/22.</p> <p>With a rateable value of £5,114 per annum, purely on the cost of business rates alone, the site represents a significant annual loss to the council. It has, therefore, been identified as surplus to requirements.</p> <p>The site is located within a central, largely residential area with 5 and 6 storey housing to the north and south (many of which are Grade II* listed) and 2 storey commercial to the east. Discussions with the Director of Planning have proven positive and no initial constraints have been identified in respect of Local Plan Policy.</p> <p>Two options for the site have been considered, which comprise:</p> <ol style="list-style-type: none"> <li>1. Do nothing, leave as an underutilised car park and continue to incur annual growing revenue losses; or</li> <li>2. Disposal in return for a capital receipt, secure immediate revenue savings on operational costs and generate longer term income to support the general fund through council tax/business rates receipts from any development activity</li> </ol> <p>Due to the location, the site will have a relatively high latent value for redevelopment purposes, which could provide a substantial capital receipt to the council and assist with funding of the council's corporate objectives and Covid-19 recovery strategy.</p>

<p><b>Recommendations</b></p>	<p>It is recommended that Cabinet:-</p> <ol style="list-style-type: none"> <li>1. Approves: <ol style="list-style-type: none"> <li>a. The process of the potential removal of the car park from the council’s current Car Parking Order and that <u>subject to the outcome of the proper consultation process, approves that the car park be removed from the Car Parking Order;</u></li> <li>b. The declaration of the site as a Surplus asset;</li> <li>c. The disposal of the car park in return for a capital receipt;</li> </ol> </li> <li>2. Delegates to the Director of Finance &amp; Assets, in consultation with the Cabinet Member for Finance &amp; Assets, authority to market and dispose of the property for best consideration and upon such other terms as are deemed appropriate; and</li> <li>3. Authorises the Executive Director for Property, Finance &amp; Assets, in consultation with the Cabinet Member for Finance &amp; Assets and the Borough Solicitor, to prepare and conclude the necessary legal documentation to reflect the terms negotiated.</li> </ol>
<p><b>Financial implications</b></p>	<p>The Covid-19 recovery budget approved by Full Council in November 2020 included a target of £4m in capital receipts. A number of sites were identified for disposal as part of this and the Council are still on target to deliver the strategy.</p> <p>Since this budget was approved, we are faced further indirect cost pressures as a result of the pandemic as a result of consumer behaviours changing as the economy re-opens and the cost of living emergency.</p> <p>With the re-launch of the Asset Management Strategy in February 2022 the Council are looking to maximise the contribution our assets make to our corporate priorities. The proposal in this paper make available options to fund priority areas as well as reducing the ongoing cost of the asset to the general fund.</p> <p><b>Contact officer: Gemma Bell, Director of Finance and Assets, <a href="mailto:gemma.bell@cheltenham.gov.uk">gemma.bell@cheltenham.gov.uk</a>, 01242 264124</b></p>
<p><b>Legal implications</b></p>	<p>Where a disposal of open space is under consideration, Section 123(2A) provides that the proposed disposal should be advertised for two consecutive weeks in a local paper, and the Council should consider any objections.</p> <p>The Council has a statutory duty under s123 of the Local Government Act 1972 to secure the best consideration reasonably obtainable when disposing of a freehold interest in property. Obtaining an outline planning permission may increase the value/saleability, but the Council as landowner should not limit its sale to this use if a higher offer for an alternative use could be obtained.</p> <p>Failing to obtain best consideration would mean that the property is sold at an undervalue, for which the Secretary of State’s consent is required</p>

	<p>(either general or specific). In addition, such undervalue may also constitute State Aid.</p> <p>The advice of an independent valuer should be obtained and followed.</p> <p>By virtue of The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996, in order to remove land from the current car parking order, the council will need to consult with the Police, County Council and other statutory consultees (Road Haulage Association for example) and also the wider public. Consultation with the wider public is by way of notice published in a local newspaper and such consultation shall be for at least 21 days. If any significant objections are received it is for the Council to decide whether the proposal requires modification or refer to a public inquiry. If no significant objections are received within the 21-day period, then the order can be made and, within 14 days of making, must be published as having been made in a local newspaper. Within 6 weeks of making the Order an objector may apply to the High Court for the order to be quashed.</p> <p><b>Contact officer:</b> One Legal, <a href="mailto:legal.servies@onelegal.org.uk">legal.servies@onelegal.org.uk</a>, 01684 272691</p>
<b>HR implications</b>	Not applicable
<b>Key risks</b>	See Appendix 1 – Risk Assessment
<b>Corporate and community plan Implications</b>	<p>The proposal will help sustain and grow the provision of housing/employment space and deliver economic, environmental and social benefits within Cheltenham.</p> <p>The proposal will assist the council in securing financial revenue savings, delivery of its capital programme and Covid-19 recovery strategy.</p> <p><b>Contact officer: Gemma Bell, Director of Finance and Assets,</b> <a href="mailto:gemma.bell@cheltenham.gov.uk">gemma.bell@cheltenham.gov.uk</a>, 01242 264124</p>
<b>Environmental and climate change implications</b>	<p>A reduction in off-street car parking capacity will help to encourage the use of public transport as an alternative to private car use.</p> <p>Any new development will be in accordance with Local Plan Policy and latest supplementary planning guidance (if adopted) in respect of helping to deliver net zero carbon objectives.</p> <p><b>Contact officer: Gemma Bell, Director of Finance and Assets,</b> <a href="mailto:gemma.bell@cheltenham.gov.uk">gemma.bell@cheltenham.gov.uk</a>, 01242 264124</p>
<b>Property/Asset Implications</b>	<p>Subject to the outcome of the proper consultation process, disposal of the site will deliver both a substantial capital receipt and savings against future revenue costs of repairs, maintenance, business rates, car parking management and property management.</p> <p>Development of the site will generate income through council tax or business rates and, potentially, new homes bonus.</p> <p><b>Contact officer: Gemma Bell, Director of Finance and Assets,</b> <a href="mailto:gemma.bell@cheltenham.gov.uk">gemma.bell@cheltenham.gov.uk</a>, 01242 264124</p>

## 1. Background

- 1.1 The council owns the freehold to land at Lansdown Place Lane, which extends to c.0.084 hectare (0.2 acre) and is currently used as a public car park and public realm (with part falling under the adjoining adopted highway).
- 1.2 The car park is currently substantially underutilised, having generated only c. £250 income in FY20/21 and c. £700 to the end of FY21/22, despite the wider economic recovery. With a rateable value of £5,114, with the cost of business rates alone, the site represents a significant annual revenue loss to the council. It has therefore been identified as surplus to requirements.
- 1.3 The site is located within a central, largely high density residential area with 5 and 6 storey housing to the north and south (many of which are Grade II\* listed) and 2 storey commercial to the immediate east. Values within this part of the town centre are relatively high, which will be reflected in the value of the site for redevelopment purposes. Whilst the immediate assumption is that the site would come forward for residential development, the central nature of the location could open up alternative uses, including health care, hotel, semi serviced employment space, etc.



- 1.4 The sale of the site has the potential to deliver both a significant revenue saving and a substantial capital receipt to the council to assist with funding of the council's corporate objectives and Covid recovery strategy.
- 1.5 Due to the history of the site and various historic restrictive covenants and rent charges, along with the potential acquisition of rights of light to the immediate adjoining property, appropriation of the site for planning purposes would allow any development to proceed without risk of an injunction under s.203 Housing and Planning Act 2016. This could give rise to potential compensation claims from affected owners, should they be able to demonstrate any loss, and those costs would be passed on to the developer by way of an indemnity.

## 2. Reasons for recommendations

- 2.1 To release an underutilised site and bring it forward for maximum economic, environment and social use
- 2.2 To generate a capital receipt to help fund the council's capital programme

- 2.3 To deliver revenue savings incurred through ownership, including business rates, electricity, repairs and maintenance, car park management and administration.
- 2.4 To deliver the economic benefits accruing from a construction project in the town centre
- 2.5 To contribute towards the council's net zero carbon commitment by providing a new opportunity in the town for a sustainable form of development.

### 3. Alternative options considered

- 3.1 Do nothing. Continue to run as a public car park, delivering minimal income and generating a substantial annual net loss to the council.

### 4. How this initiative contributes to the corporate plan

- 4.1 Delivers net savings and other financial efficiencies, creates revenue income through council tax and potential new homes bonus, secures a capital receipt and generates economic benefits.

### 5. Consultation and feedback

- 5.1 Internal only with Environment and Planning.
- 5.2 **Environment** have confirmed utilisation and income and confirmed that they are happy to declare it surplus, subject to the proper process of consultation and amendment to the council's car parking order.
- 5.3 **Planning** have advised that there are no obviously policy conflicts with the Local Plan.
- 5.4 This report was considered by the Asset Management Working Group on the 23<sup>rd</sup> June. Members supported the proposal to consult on the retention of the site within the Parking Order.

### 6. Performance management –monitoring and review

- 6.1 Monitor to ensure the marketing and disposal process concludes to deliver a scheme and secure Best Consideration for the council.

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<b>Appendices</b>	1. Risk Assessment
<b>Background information</b>	N/A

The risk				Original risk score (impact x likelihood)			Managing risk					
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register	
1	If the council does nothing then it will continue to incur increasing revenue costs of ownership, management and maintenance	PW	15/03/22	5	6	30	Transfer to 3 <sup>rd</sup> Party	Move to disposal	ASAP	Peter Woodley	N/A	
2	Third party adjoining landowners seek to frustrate development through historic covenants	PW	15/03/22	1	2	2	Accept & Transfer to 3 <sup>rd</sup> Party	If necessary, appropriate site for planning purposes and secure indemnity from purchaser against any compensation claims	ASAP	Peter Woodley	N/A	
3	Development of site causes objections and complaints from local residents and occupiers	PW	15/03/22	2	4	8	Transfer to 3 <sup>rd</sup> Party	Agreement for sale to include requirements for purchaser to apply considerate construction principles	Prior to exchange of contracts	Peter Woodley	N/A	
<p><b>Explanatory notes</b></p> <p><b>Impact</b> – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p><b>Likelihood</b> – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p><b>Control</b> - Either: Reduce / Accept / Transfer to 3rd party / Close</p>												