



Report to Cabinet

Date:	5 th January 2023
Title:	High Wycombe Asset Disposal Strategy
Cabinet Member(s):	John Chilver, Cabinet Member for Accessible Housing & Resources
Contact officer:	John Reed, Claire Hunter
Ward(s) affected:	Chiltern Villages
Recommendations:	<p>That Cabinet:</p> <ol style="list-style-type: none">(1) Authorise an extension to the date by when the Council must declare the existing Put & Call Notice (“the P&C”) live.(2) Authorise variation of the terms of the existing Put & Call Notice (“the P&C”) as set out in the confidential annex including<ol style="list-style-type: none">a. delaying the date that the Council can serve its Put option andb. permitting Wycombe Film Studio (“WFS”) to serve its Call option as soon as the P&C is live<p>providing the Council’s revised financial position is no worse than that of November 2022.</p>(3) Declare the P&C, once in its final form, live thus enabling the Council to receive the capital receipt from WFS as detailed in the confidential annex.(4) Delegate 1-3 above to Director for Property & Assets in consultation with the Cabinet Member for

Accessible Housing and Resources, the Director for Finance (s.151 officer).

Note: the capital receipt will be retained for income generation – initially from the interest received on the capital.

Reason for decision: Exercising the P&C in a revised form presents the best overall outcome for the Council in terms of securing a long-term income stream and a capital receipt.

1 Executive summary

- 1.1 Under its existing legal contract with WFS, the Council must shortly decide whether to exercise the Option Agreement (“the agreement”) for the P&C on the film studio site (“Site A”) adjoining Wycombe Air Park. If no decision is made, the P & C falls away.
- 1.2 Since the existing legal contract was signed in April 2022, WFS have requested a variation in the terms of the P&C to ensure delivery of the overall business plan for developing a major film studio complex on Site A.
- 1.3 Negotiations are ongoing between the Council and WFS and revised terms are close to being agreed. These terms result in a greater capital receipt, in accordance with the terms set out in the confidential appendices.
- 1.4 As currently worded, the agreement needs to be signed off by the Council no later than January 2023. Otherwise, the agreement falls away. If the Council decides to serve notice, then it can secure a capital receipt which is greater than the value of the income stream under the current agreement.
- 1.5 Decision 1 is whether the Council will agree an extension to this sign off date of the Put and Call option. On the basis that the P&C does not go live until a planning permission is granted for a permanent consent for film studios on the site, which is likely to be in March 2023, this request for an extension is not a commercially sensitive point and WFS have confirmed that they are ready to progress the extension of time.
- 1.6 Decision 2 is whether the Council accept the variations currently being asked for by WFS. The key changes sought enable WFS to acquire the effective freehold for Site A anytime after the agreement is served; in contrast, the Council cannot demand a sale until a later date but in the meantime are entitled to a higher rent than currently entitled to.
- 1.7 Decision 3 is whether the Council wish to trigger the agreement in either its existing or revised form.

1.8 Officers recommend all three actions. All are financially advantageous to the Council and optimise the prospects for the film studio to be developed over the short to medium term.

2 Content of report

2.1 Background to the P&C.

2.2 The Council entered into an Agreement for Lease (the Afl") with WFS on 14 April 2022. As part of this legal document, the agreement was entered into for a P&C whereby the Council or WFS, subject to strict timing conditions, could choose to convert the proposed 25-year lease ("the lease") into an effective freehold purchase (150-year lease) on Site A in return for a set value capital receipt. Timing for the lease to commence is when WFS successfully secure planning permission for the comprehensive development of sound stages and associated buildings on Site A.

2.3 Explanatory note - A P&C is a contractual arrangement between two parties whereupon Party One can Put the legal obligations of the notice onto Party Two whilst Party Two can Call to have the notice put on it. In this instance, Party One is the Council and Party Two is WFS.

2.4 The agreement provided that WFS must provide reasonable evidence to the Council of its funding arrangements in relation to the P&C within a defined period. This was actioned by WFS in accordance with the timescale set out in the agreement.

2.5 The Council now has a further defined period to decide whether to serve notice on WFS that it must enter the P&C in the form attached to the Agreement. If the Council serves notice, then the Parties must enter the P&C within ten working days of receipt of the notice by WFS. Once the P&C is entered, neither party can terminate it.

2.6 The service of the initial notice does not trigger the P&C but enables the valid service of Put or Call notices by the respective parties in accordance with the timings in the agreement.

2.7 The terms of the existing P&C.

- (i) The P&C obligates WFS to sign a 150-year lease on Site A on a peppercorn rent subject to a pre agreed capital sum which only varies depending on square footage consented. Provisions exist for additional monies to be paid by WFS to the Council if planning permission is obtained on a later date for more accommodation. As part of this agreement, the 25-year lease on the site, granted on planning permission, is extinguished.
- (ii) If an option notice is served but the 150 Year Lease is not completed by WFS, there will be an increase in the annual rent in the 25-year lease.

- (iii) The Council's Put Option Period starts on the date that is 30 days after the date on which the Lease is completed pursuant to the Agreement for Lease and will end on the third anniversary of the date of the Option Agreement.
- (iv) The Tenant's Option Period will start on 30 September 2024 and will end on the third anniversary of the date of the Option Agreement.
- (v) The Option Agreement refers to 150 Year Lease for an 'Enhanced Scheme' which is for a 275,000 sf film studio complex that is currently in for planning. A decision on this is expected in March 2023.

2.8 Next Available Steps

- (i) Three scenarios exist:
 - Exercise the agreement and then seek to amend the terms of the P&C to meet the funding requirements of both WFS and its funding partner whilst maintaining the Council's income and capital receipt budgets.
 - Extend the long stop date to exercise the agreement and then seek amendments as per the terms set out in the confidential annex. If by the extended longstop date, no variation is agreed, then exercise the P&C on the current terms. If variations are agreed, exercise the P&C on the revised terms.
 - Do nothing – the Council do not exercise the existing agreement by the longstop date whereupon WFS will still be obligated to occupy Site A on a 25-leasehold basis once a permanent planning consent is obtained.

3 Legal and financial implications

3.1 Financial implications.

- (i) Exercising the Put & Call Option results in a loss of Revenue income from the point at which the 150-year lease is entered into. March 2023 is the earliest this could happen based on current planning decision dates. This would result in a pressure on the Council's Revenue budget.
- (ii) Serving the Put Option will provide a significant Capital Receipt. The interest on this figure exceeds the revenue income received annually, based on today's interest rates. This will ensure no ongoing pressure to the Council's Revenue budget.

3.2 Legal implications

(i) Extending the date of the notice poses no major legal implications and serves to protect the Council's position while negotiations are finalised for the variations to the agreement.

(ii) Best Value requirements

The Council has a legal obligation under Section 123 of the Local Government Act 1972 not to dispose of land for a consideration less than the best that can be reasonably obtained unless the land is disposed of for a short tenancy of less than seven years or in some cases Secretary of State consent is required. This has been satisfied as discussed in the confidential annex.

4 Corporate implications

(i) Property – this transaction meets MTFP targets

(ii) HR – Not applicable

(iii) Climate change – not applicable

(iv) Sustainability – not applicable

(v) Equality (does this decision require an equality impact assessment) not applicable

(vi) Data (does this decision require a data protection impact assessment) not applicable

(vii) Value for money – the proposed agreement meet 'best value' considerations

5 Local councillors & community boards consultation & views

5.1 Local Councillors have been consulted as part of the decision-making process and have stated their support for the emerging transaction and for negotiations to continue. They have stated that they would not support a freehold disposal.

6 Communication, engagement & further consultation

6.1 The document will move through the formal Council process and carry out consultation necessary for this decision.

6.2 WFS have undertaken the necessary public engagement for their development as part of the planning process.

7 Next steps

7.1 This will be taken to Cabinet for a final decision on 5 January 2023.

8 Background papers

8.1 See Cabinet decision for original WFS decision 28th September 2021.

9 Your questions and views

9.1 If you have any questions about the matters contained in this report, please get in touch with the author of this report. If you have any views that you would like the cabinet member to consider, please inform the democratic services team. This can be done by email democracy@buckinghamshire.gov.uk.