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Meeting	Cabinet Resources Committee
Date	16 December 2004
Subject	Sale of Council's Freeholds of 106/108/110 and 118 Burnt Oak Broadway, 15, 30 and 32 Watling Avenue.
Report of	Cabinet Members for <ul style="list-style-type: none">○ Resources○ Performance, Partnerships and Best Value○ Housing, Neighbourhoods and Community Safety
Summary	This report seeks approval for the sale of the Council's freehold interest to the head-leaseholders.

Officer Contributors	Nick Elsley, Principal Valuer, Property Services & Valuation.
Status (public or exempt)	Public (with a separate exempt section)
Wards affected	Burnt Oak
Enclosures	Appendix A: explanation of "marriage value"
For decision by	Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	Not applicable

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1. RECOMMENDATIONS

- 1.1 That the negotiated offers from the head lessees of the five properties as set out in the exempt report for the purchase of the freehold interests of properties in Burnt Oak Broadway and Watling Avenue be accepted and that the Borough Solicitor be instructed to complete the sales in forms to his approval.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 None

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Corporate Plan commits the Council to “plan and manage land use and development in Barnet to enhance the quality of life and provide tangible benefits for the community”. The proposals in this report achieve these aims by producing a capital receipt from the sales which will be credited to the Housing Revenue Account.

4. RISK MANAGEMENT ISSUES

- 4.1 The legislation relating to leaseholder rights to enfranchise and acquire the freehold interests of their leased properties is complex and has been the subject of various legislative changes in recent years. If these negotiated offers are not accepted it may be that the opportunity to sell the freeholds and realise the shares of the marriage value set out in the exempt report to the benefit of the lessees and the Council would be lost.

5. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS

- 5.1 Receipt of capital sums as set out in the exempt report which will be credited to the Housing Revenue Account. The Council will additionally save the cost of collecting the ground rents.
- 5.2 There are no staffing or ICT issues. The property issues are as set out in section 7 below.

6. LEGAL ISSUES

- 6.1 None

7. CONSTITUTIONAL POWERS

- 7.1 Constitution – Part 3 Responsibility for Functions – Section 3.6 Functions delegated to the Cabinet Resources Committee – All matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the council.

8. BACKGROUND INFORMATION

- 8.1 The five properties (106/108/110 and 118 Burnt Oak Broadway, and 15, 30 & 32 Watling Avenue) comprise ground floor shops with residential accommodation on upper floors and form part of the Burnt Oak housing estate transferred to the Council by the former

Greater London Council (GLC) in 1974. This estate was developed between the wars as a model local authority housing estate. The sites of the commercial/residential units were originally sold on long leases with building agreements in the 1920's.

- 8.2 Consequent upon the transfer from the GLC, the Council owns the freehold interests in the five subject properties – each is subject to the original building lease details of which are set out in the exempt report.

HISTORY

- 8.3 Over the past 20 years various of the leaseholders of shops in Burnt Oak Broadway, Watling Avenue and Deansbrook Road have sought to acquire the Council's freehold interest. The Council's approach has always been that it should not only achieve the value of its reversionary interest but also a proper share of the marriage value. Not all leaseholders were prepared or had the financial resources to purchase the freehold interest for its correct price. The consequence of this has been a scattering of freehold sales in the three roads but with the Council still owning the freehold of many of the properties.

CURRENT SITUATION

- 8.4 There have been considerable changes to the legislation relating to leasehold enfranchisement over the past 20 years. The consequence of this has been that in many instances leaseholders have been given greater rights to acquire the freehold interest in their properties at prices calculated by reference to formula set out in the enabling Act. This has resulted, in some instances, in freeholds not achieving the level of value they had anticipated prior to the introduction of the legislation.
- 8.5 In light of the changing position in respect of leaseholder enfranchisement rights, officers have been in contact with some of the lessees in Burnt Oak Broadway and Watling Avenue enquiring whether they would be interested in acquiring the freeholds of their properties. It was made clear that they would be expected to pay a price which properly reflected the value of the Council's freehold interest, including a proper share of the marriage value. An explanation of marriage value is set out in appendix A.
- 8.6 Consequent upon negotiations the lessees of the three subject properties have made the offers set out in the exempt report to acquire the freehold interest in each property. It is considered that the sums offered, in each case, includes a proper share of the marriage value for the Council and therefore the negotiated offers represent best consideration and will therefore satisfy the requirements of Section 123 of the Local Government Act 1972. If the sales proceed, the purchasers will each pay a contribution towards the Council's valuation and legal costs.

9. LIST OF BACKGROUND PAPERS

- 9.1 None

BS: RAB
BT: JO

MARRIAGE VALUE

'Marriage value' is the extra value in a property which can be realised if two interest are merged.

By way of simple example – assume a shop is let on a 60 year lease at a ground rent. The value of freeholder's interest is the value of the annual ground rent plus the long term right to receive a full rental value when the current lease expires (for this example say £10,000). The leaseholder's interest value is the right to the market rent each year, less the ground rent, for 60 years (for this example say £100,000).

If the freehold of the property was owned without the encumbrance of the long lease then its value would be greater than the sum of the other two values. Thus, if, in this example the unencumbered freehold was worth £160,000, then the marriage value would be as follows:

Unencumbered freehold value as above		£160,000
LESS		
Freehold value subject to long lease as above	£ 10,000	
Long leasehold value as above	<u>£100,000</u>	
	£110,000	<u>£110,000</u>
 Marriage value		 <u>£ 50,000</u>

The marriage value is shared between the freeholder and the lessee with the actual shares being the subject of negotiation. So, for this example, if it is assumed the marriage value was to be shared 40% to the freeholder and 60% to the lessee, the sum the lessee would pay for the freehold subject to his long lease would be:

Current value of freehold	£10,000
ADD 40% of marriage value	<u>£20,000</u>
Price to pay	<u>£30,000</u>