

Scrutiny Committee 4 December 2017

Disposal of Assets

Cabinet Member Cllr R Stanley / Cllr Peter Hare Scott
Responsible Officer Andrew Jarrett Director of Finance, Assets & Resources

Reason for Report: To note procedures currently in place for the disposal of community assets to the market place, including a review of what has taken place in the past.

RECOMMENDATION: To note procedures currently in place for asset disposal.

Relationship to Corporate Plan: Property assets are linked to the delivery, vision and priorities of the Council. The way that the Council manages its land and property assets has a direct impact on the quality of services delivered, as well as maximising the value derived from our property holdings for the on-going contribution in balancing the Councils budgets. It is, therefore, important that efficient and effective use is made of our asset portfolio to support corporate and service objectives.

Financial Implications: Disposal of the freehold interest in land and buildings that are surplus to Council requirements will realise capital receipts.

Legal Implications: A local authority is in the position of trustee in relation to land or property that it owns on behalf of the community, and under s.123 of the Local Government Act 1972 ("the 1972 Act") it has a statutory duty to dispose of the land or property for the best price that can reasonably be obtained. The Government issued a General Disposal Consent in 2003 which removed the obligation on local authorities to seek the express consent of the Secretary of State for disposals at an undervalue where the local authority can show that certain criteria apply and the undervalue (difference between market price and disposal price) is less than £2,000,000.

It is the responsibility of the Council to satisfy itself that the land is held under powers which permit it to be disposed of under the terms of the 1972 Act and, if not, to take action to appropriate it to enable such disposal (for example, under section 122 of the 1972 Act). There are, by way of further example, specific powers in the Town and Country Planning Act 1990 ("the 1990 Act") to appropriate land held for planning purposes to another purpose and to dispose of such land.

It is also the responsibility of the Council to undertake any further procedures which may be necessary to enable it to dispose of any particular area of land. For example, sections 123(2A) and 127(3) of the 1972 Act and section 233(4) of the 1990 Act require a local authority wishing to dispose of open space under those powers to advertise its intentions in a local newspaper for two consecutive weeks and to consider objections. Authorities should carry out these procedures before making any final decisions about disposal as the public response to the notices may be material to any such decision.

When disposing of land at less than best consideration the Council is in effect providing a subsidy to the owner, developer and/or the occupier of the land and property, depending on the nature of the development. Where this occurs, the Council must also ensure that the nature and amount of subsidy complies with the State aid rules, particularly if there is no element of competition in the sale process. Failure to comply with the rules means that the aid is unlawful, and may result in the benefit being recovered with interest from the recipient (i.e. from the purchaser)

Risk Assessment: Risk assessments will be carried out on individual asset disposal to mitigate associated risks.

Equality Impact assessment: If applicable an Equality Impact Assessment will be carried out on individual asset disposal to aid the decision making process.

1.0 Introduction

1.1 At a Scrutiny Committee meeting dated 9th October 2017, it was requested that officers bring back a report outlining the Councils policies/ procedures with regard to asset disposal. The procedures for asset disposal are detailed within Annex A of the Asset Management and Capital Strategy Plan 2016-2020 (AMP). This same procedure is followed if the asset is Commercial, Community or Corporate. The AMP was revised with clear intent in October 2016 with the following key objectives:

- To invest our capital in existing and new assets with the intent to reduce revenue running costs over the life of a building, or to generate an income stream from rentals.
- To provide the right assets in the right place at the right time from which to deliver our services.
- To maximise the estate's value for money.
- To capitalise on the potential for a new investment based approach to commercial property opportunities, which will deliver low risk, sustainable revenue income for the Council in the medium to long term.
- To enable the objectives of the business plan for Property Services to be met.

1.3 The AMP details how the Council manages our estate and describes how we shall treat all properties as a Council asset and how they will be managed strategically by our Property Services Team. The AMP places our property assets at the centre of Council decision-making, acknowledging their importance and financial value.

1.4 The Corporate Plan objectives can directly impact on the property from which we operate and therefore the investment decisions the Council make. Where the action affects a particular service in relation to disposal or acquisition of a property asset or interest, each relevant Member will be consulted, as well as our Leadership team.

2.0 Capital Strategy Asset Group (CSAG)

2.1 The Council has set up a cross-directorate working group (CSAG) to promote the effective management of the Council's land and buildings and to oversee the preparation and implementation of the AMP. The group comprises of senior officer's representative(s) and a number of Cabinet Members. The Group is chaired by the Group Manager for Corporate Property and Commercial Assets who acts as an internal project manager in respect of the preparation and monitoring of the Asset Management Plan, with the support of the Development Services Officer who ensures that the agenda and supporting documentation are prepared and accurate. The Group meets on a quarterly basis. The minutes of each meeting are kept confidential due to commercially sensitive content. Service departments in areas affected by Asset Management Reviews are consulted on these reviews and any resultant actions are reported back to the CSAG.

2.2 The Council considers it appropriate that both strategic and operational asset management be undertaken by the CSAG. To ensure continued inter-department consultation and a corporate approach to all proposals affecting the Council's land and buildings, the following procedure has been adopted.

2.3 The CSAG Forum has the following Terms of Reference:

- To support the preparation and review of a Corporate Asset Management Plan that details existing asset management arrangements and action to improve corporate asset use on an annual basis.
- To promote service asset management planning and a wide understanding of corporate ownership of assets; seeking wherever possible to promote and develop cross service use of assets.
- To support the adoption of performance measures and benchmarking to describe and evaluate how the Council's asset base contributes to the achievement of corporate and service objectives and improvement priorities.
- To ensure that the Council makes investment and disposal decisions informed by thorough option appraisal and evaluation.
- To assess stakeholder satisfaction and recommend changes in asset use as a result of stakeholder consultation.

To co-ordinate cross service aspects of corporate property assets, providing liaison between Service users and to enhance corporate service delivery.

- To support the development and monitoring of the capital programme and the Council's medium-term financial plan.

3.0 Asset Disposal

3.1 It is important that efficient and effective use is made of our asset portfolio to support corporate and service objectives, therefore our corporate assets are regularly reviewed at the CSAG meeting, where the group agree on one of four options regarding the future of a corporate asset:

- Continued maintenance – where the property is considered to be doing the right thing in the right place. All that will be required is a planned maintenance schedule;
- Improve usage – there may be an opportunity for better usage or co-location. This may require some capital expenditure, along with a planned maintenance schedule;
- Building enhancement – where an asset requires significant capital expenditure.
- Consideration of an appropriate method of asset disposal.

3.2 The outcomes will include an understanding of the property objective and will arrive at a decision to either retain or dispose of an asset. Where an asset deemed surplus for disposal is valued in excess of £10,000 and following consultation with Ward Members, a recommendation will be made to Cabinet (a) documenting the reason for disposal, (b) stipulating any conditions that will apply and/or endure after disposal and (c) suggesting an appropriate method of disposal. Ward Members will be consulted on those assets identified as surplus for disposal and with a value of under £10,000, before the Director of Finance, Assets & Resources authorises the disposal of the asset and determines the appropriate method and timing of the sale.

3.3 The receipts generated by the disposal of assets are treated as a Corporate resource to fund the capital programme as it is important to ensure we continue to invest and maintain our Corporate and Commercial estate.

4.0 Previous examples of approved asset disposals

4.1 The former public conveniences in Silverton was disposed of to 'Silverton Room 4 U' for an agreed price following receipt of a valuation with a repayment plan put in place over a four year period following an initial payment and the asset disposal was agreed at Cabinet on 30th July 2015.

4.2 Lords Meadow Depot - asset was surplus to requirements, a valuation was arranged and the asset disposal was agreed at Cabinet on 28th September 2017.

4.3 Station Yard Tiverton - asset was surplus to requirements, a valuation was arranged and the asset disposal was agreed at Cabinet on 30th March 2017.

4.4 Tiverton Town Hall – Agreed to dispose of the asset to Tiverton Town Council for an agreed price following receipt of a valuation with a repayment plan put

in place over a six year period following an initial payment and the asset disposal was agreed at Cabinet on 5th January 2017.

- 4.5 All of the above disposals were brought and discussed / endorsed by CSAG prior to any marketing and subsequent offers being accepted. Where Part 2 procedures permit, the Group Manager for Corporate Property and Commercial Assets will ensure Ward Members are kept informed of plans to dispose of Councils assets.

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