

# SHEFFIELD CITY COUNCIL DISPOSALS FRAMEWORK

SEPTEMBER 2022

## 1 INTRODUCTION

- 1.1 Sheffield City Council has a substantial portfolio of land and property assets some of which are no longer required for the delivery of services to the public. The disposal of surplus assets can provide additional resources for reinvestment in service provision and reduce the call on council revenue budgets and can support the delivery of wider Corporate objectives. However disposal of land and property held by public authorities can be contentious and it is important that clear guidelines are followed to avoid allegations of impropriety and legal challenge.
- 1.2 The framework therefore covers the statutory and legal powers for disposal, governance and decision making processes, and the methods of disposal. The procedure for declaring assets surplus is covered in the accompanying appendices.
- 1.3 The disposal framework provides guidance to Officers and Elected Members to ensure that the Council is compliant with its legal requirements to obtain the best terms reasonably available for any asset disposal and that all interested parties are given an equal opportunity to put forward a bid, lease or purchase surplus property avoiding partiality or bias. It sets out the Council's requirements for the disposal of its property assets (i.e. land and buildings) and covers the key principles involved in any disposal:
- a) The Council must dispose in line with statutory powers and duties to get the best consideration possible unless there are social, economic, or environmental benefits for citizens which support Council policy objectives in these areas and any undervalue can be clearly identified
  - b) Decisions about the use of the Council's estate are taken corporately in the best interests of the Council and decisions must be open, transparent, fair and timely
  - c) Any disposal must have formal approval through appropriate governance
  - d) The method of disposal is approved and managed by the Chief Property Officer
  - e) A disposal can only be considered if the property is surplus to Council requirements.
- 1.4 The Framework applies principally to SCC property assets held in the General Fund account. The following types of disposals are subject to other specific statutory requirements:
- Council housing under Right to Buy provisions of the Housing Act 1985
  - The grant of new leases, licences or tenancy agreements that relate to council dwellings, garages and other premises administered as part of the Housing Revenue Account and falling under the Housing Act 1985
  - Land held for the purposes of Part II of the Housing Act 1985 ("housing land") where the only power to dispose is under section 32 of the Act with disposal subject to Secretary of State consent; general consents such as the General Housing Consents 2013 may apply in which case specific consent is not needed
  - Disposals to a Registered Private Provider of Social Housing where the General Consents under section 25 of the Local Government Act 1988 (Local Authority assistance for privately let housing) 2010/2014 may be applicable. If so, it is not usually necessary to get further consent under section 32 of the Housing Act 1985 or section 123 of the Local Government Act 1972
  - Freehold interests or the extension of existing leases under the provisions of the Leasehold Reform Act 1967 (as amended)
  - Disposal of schools assets to Academy Trusts under the Academies Act 2010

- Allotments and allotment sites
- Stalls and benches at Sheffield Markets

## 1.5 Property Held on Trust

Disposals of property assets owned by Sheffield City Council as the trustees of a Charity or Trust are governed by the provisions of the Charities Act 2011 and the Charities (Qualified Surveyors Reports) Regulations 1992. Regulation is via Charity Commission. However, the general principles of this Framework also apply to charitable disposals where the Council as trustee should act in the best interests of the Charity.

## 1.6 Disposal Definitions

For the purposes of this Disposals Framework a disposal is:

- Disposal of a Freehold interest
- Grant of a Lease for more than 7 years
- Assignment of Leases with more than 7 years left to run

## 2 STATUTORY REQUIREMENTS & POWERS

- 2.1 The main piece of legislation covering the Council's powers to dispose is Section 123 Local Government Act 1972. Subject to the provisions of section 123 a Council can generally dispose of land in any manner they wish but section 123(2) requires that:

*“Except with the consent of the Secretary of State a Council should not dispose of land under this section other than by way of a short tenancy (which is a tenancy of not more than 7 years) for a consideration less than the best that can reasonably be obtained”.*

## 3 DISPOSAL FOR BEST CONSIDERATION

- 3.1 The default position is that the Council should seek best consideration in disposal of assets. Best Consideration is generally the best price in monetary terms that could be achieved if the asset was offered on the open market assuming a willing seller, a willing buyer and no restrictions or requirements on the disposal which may impact on value. Where a disposal is not by way of an open market sale (see Disposal Methods) the Council should clearly demonstrate that the price obtained represents best consideration. An independent valuation of open market value is acceptable for this purpose. All valuations will be based upon the approach and requirements set out in the RICS Red Book.
- 3.2 In addition, Council Members and officers have a fiduciary duty to ensure that any disposal is at best consideration as these are local government assets involving taxpayers' money. Achieving Best Consideration from disposals is key to sustaining a level of capital receipts each year to support key services and investment through the Council's capital programme.

## 4 DISPOSAL FOR LESS THAN BEST CONSIDERATION

- 4.1 Disposal at Less than Best Consideration is possible, though should only be considered in exceptional cases. Secretary of State's consent is always needed but a general consent has been issued. Circular 06/03: Local Government Act 1972: General Disposal Consent (England) 2003 ('the General Consent') covers disposals where the Council can demonstrate

that the purpose for which the land is to be disposed is likely to contribute to one or more of the following objectives for the whole or any part of the area, or for all or any persons in the area:

- The promotion or improvement of economic well being
- The promotion or improvement of social well-being
- The promotion or improvement of environmental well-being

and

- The difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2m.

- 4.2 The General Consent can only be used where the property in question is held under statutory powers which permit it to be disposed of under the terms of the 1972 Act. A large percentage of the Council's land will be held in this way. The General Consent does not apply where land is held for other specific purposes such as housing, education, highways, and planning for which other statutory disposal powers apply.
- 4.3 Specific approval from the Secretary of State is required for disposals at less than best consideration where the difference in value between the disposal price and best consideration value (e.g. market value) is more than £2m or if there are other circumstances which mean that the General Consent does not apply. The Circular should be read in full before progressing any disposal at less than best consideration. Details of how an undervalue is calculated are contained in the Technical Appendix to the Circular. The difference in value is always assessed on a capitalised basis.
- 4.4 Disposal at less than best consideration should only be used in exceptional circumstances for example where the Council may be seeking outcomes from a disposal that delivers wider policy objectives and which may impact on the disposal price (e.g. securing inward investment and job creation; support for a charitable organisation delivering benefit to the community). However, the benefits from a disposal at less than best consideration must be clear, tangible, and directly support the economic, social, or environmental responsibilities and duties of the Council. The amount of any reduction in value must be specifically identified, reported, and approved
- 4.5 Any disposal at less than best consideration is important because of the opportunity cost to the Council. Disposal at an undervalue must ensure that the outcome will be at least as beneficial as that which could have been achieved through disposal of the asset at Best Consideration and should clearly contribute towards fulfilling corporate objectives
- 4.6 The Council must also be able to demonstrate that it has complied with the statutory framework **and** that it has acted reasonably in agreeing a transaction at an undervalue. There may be unsuccessful, potential purchasers or local residents who may challenge a decision. It is therefore vital that the Council is able to clearly demonstrate openness and reasonableness having regard to applicable policy.
- 4.7 As well as the financial implications of disposals at less than best consideration, disposal must also take account of other control matters such as Subsidy Control. It is therefore vital that the views of the Chief Property Officer and Legal Services are sought at an early stage where a disposal at less than best consideration is being considered.

## **5 GOVERNANCE AND DECISION MAKING**

- 5.1 The Finance Sub-Committee (a sub-committee of the Strategy and Resources Policy Committee) is authorised to take decisions in respect of property matters which are otherwise reserved to the Strategy and Resources Policy Committee.
- 5.2 Strategy and Resources Policy Committee or Finance Sub-Committee will make decisions for disposals of freehold or leasehold interest (excluding a mortgagee sale or disposals that Council must by law complete such as Right to Buy, lease enfranchisement or easements to certain service providers):
- Where the Council has been required by Law to publicly advertise the proposed Disposal (e.g. public open space); and one or more objections to the proposed Disposal has been received;
  - Which are not subject to a competitive process where the consideration to be received by the Council exceeds £300,000;
  - For less than the best consideration reasonably obtainable;
  - Which are clearly controversial;
  - Which for any statutory or other legal reason need to be decided by a committee, not an officer
  - Which involve the transfer of a freehold interest, the grant of a lease for a term of not less than twenty-five years or the assignment of a lease with a remaining term of not less than twenty-five years AND a relevant councillor or parish/town council has objected

The Committee will also make decisions about acquisitions of Property where the consideration to be paid by the Council exceeds £250,000 (but not including any acquisition of Property that the Council is obliged by Law to complete), and appropriation of surplus property to another purpose.

- 5.3 The Chief Property Officer is authorised to make any decision in respect of property matters not reserved to a Committee or Full Council with the exception of surplus declarations of operational property (See appendix 1) which shall be made by the relevant Executive Director
- 5.4 The Charity Trustee Sub-Committee (a standing committee of the Strategy & Resources Committee) will make decisions related to land and property held in charitable trust by the Council (note that the requirements of the Charities Acts will also apply).
- 5.5 **Local Area Committees (LACs)**

LAC Chairs and Local Ward Members will be provided with a list for information of any properties in their area which are proposed for disposal.

LACs and Local Ward Members can provide views and comments about disposals to the Chief Property Officer. Comments should be by email to Property Services and the contact email of the lead officer. LACs and local Ward members do not have any decision making powers on disposals but comments will be considered as part of the decision making process. Any LAC views or comments on a specific disposal should be a collective view from the LAC.

## **6 APPROVAL PROCESS – LESS THAN BEST CONSIDERATION**

- 6.1 The Council will only consider disposals at less than Best Consideration:
- In accordance with Circular 06/03: Local Government Act 1972: General Disposal Consent (England) 2003 ('the General Consent') or another applicable General Consent, and:

- Where it is can be clearly demonstrated that the disposal assists in achieving the Council's corporate objectives as set down in the Corporate Plan, the Corporate Asset Management Plan and other relevant Corporate documents and strategies

6.2 A disposal to a local community group, voluntary group, local charity or trust or other type of local body will only be considered where the organisation is properly constituted and effectively managed. The relevant sponsoring service area is responsible for carrying out appropriate due diligence and investigation and the purchaser must be able to demonstrate that they have the necessary skills, expertise, and ability to manage and operate the property. A robust business plan is required to demonstrate that the purchaser can manage all aspects of the property on a sustainable basis.

6.3 In implementing this policy, regard must be given to the Council's Corporate Asset Management Plan (the Sheffield Land & Property Plan) and other relevant policies including any Community Lettings Policy.

6.4 **Freehold Interests:**

The Council will not consider the sale of a freehold at less than Best Consideration unless there are very exceptional circumstances.

6.5 **Leases:**

The Council will only consider granting leases or disposing of leasehold interests at less than Best Consideration:

- For up to 10 years where no significant investment is to be made by the purchaser
- For up to 30 years in circumstances where a significant investment is to be made by the purchaser or which involves external funding and where the funding body, e.g. the National Lottery, requires a longer term.
- For up to 99 years in the case of disposals of Housing Land to Private Registered Providers of Social Housing where a significant investment is to be made by the body which involves external funding and where the funding body requires a longer term

Where a disposal by way of lease is to enable external funding to be secured, the lease term will be the minimum required by the external funding provider and the lease will be conditional on such external funding being secured.

6.6 **Less Than Best Consideration Report**

6.6.1 Where there is a proposal to dispose of property at less than best consideration a report will be submitted to the Finance Sub-Committee (or Strategy and Resources Policy Committee) for decision. When disposing of land at an undervalue, decision makers must remain aware of the need to comply with their fiduciary duty in a way which is accountable to local people. All reports and proposals for disposal at less than Best Consideration must therefore be supported by a full analysis of the benefits and impact.

6.6.2 Reports for decision must contain sufficient information to enable decision makers to decide whether the disposal will be a proper use of the General Consent, having regard to the Council's fiduciary duties, legal and property matters. The report must also clearly demonstrate how disposal at an undervalue supports the Council's policy objectives and duties and responsibilities for economic, social and/ or environmental well-being.

6.6.3 All reports requesting approval for a disposal at an undervalue must contain:

- A valuation report provided by or via the Chief Property Officer identifying the scale of the undervalue, undertaken by an RICS qualified Registered Valuer as required by the circular and technical guidance accompanying the General Disposal Consent Order 2003. In most cases this will be a Registered Valuer from Property Services but where the disposal is controversial or there is potential challenge on the agreement of market value an independent RICS Registered Valuer may be appointed to provide valuation advice.
- An assessment from Property Services identifying any risks or impact which may result from the disposal at an undervalue including an assessment of the impact on the local property market, land values or future capital receipts
- An assessment from Legal Services on whether the disposal falls within the terms of the General Consent enabling the Council to sell at an undervalue, whether the disposal is compliant with Subsidy Control and any other legal considerations.
- An assessment from Finance and Commercial Services of the impact on the Capital Programme, revenue budgets and existing financial commitments and how any reduction in potential capital receipt (i.e. subsidy) will be accommodated.
- A summary of the due diligence undertaken and any financial or audit checks carried out on the proposed purchaser and any identified issues

6.6.4 Disposal at less than best consideration must be explicitly agreed, supported and sponsored by the Director of the lead Service responsible for the relevant social, economic and/ or environmental benefits which the disposal will support or deliver. A robust business case supported or provided by the Service should accompany the report. It should make a clear case to support the undervalue and should include:

- An assessment with supporting evidence of how the proposal contributes to the achievement of:
  - the promotion or improvement of economic well-being;
  - the promotion or improvement of social well-being;
  - the promotion or improvement of environmental well-being;
- An assessment with supporting evidence, of the non-monetary benefits and value to the Council
- An assessment with supporting evidence, of the capitalised value to the Council of those benefits of the proposal which are capable of monetary assessment (e.g. operational savings or income generation, levering in of additional financial resources)
- A description of how the disposal will contribute positively to an agreed Council policy priority and confirmation that it will not adversely affect a higher priority project or area, together with a clear statement showing where the scheme fits within service priorities
- A clear statement that the benefits which the city or its residents will derive cannot be achieved unless the sale takes place at an undervalue and confirming that no alternative mechanisms for delivery or sources of funding are available.
- In cases where the proposed disposal is to an identified person/ organisation without a tender process this will normally only be possible where the Director of the sponsoring service has requested, considered and reported on a robust business plan and has carried out an assessment of the financial standing, capacity and skills available to the person/ organisation including copies of the accounts for the last 3 years
- Where a disposal is to a Charity or Trust the relevant Director must ensure that the organisation conforms to Charity Commission governance and management requirements and that the organisation has complied with the financial reporting requirements of the Commission

## 6.5 Recording and Monitoring

The Chief Property Officer will maintain a record of disposals carried out under this Policy and the General Consent and advise the Chief Finance Officer and Strategy & Resources Policy Committee on an annual basis of details of all transactions at less than Best Consideration

granted during the financial year. The relevant Director from the sponsoring service will be responsible for identifying, monitoring and reporting on the non-monetary benefits to the community and to the Council.

## **7 DISPOSAL METHODS**

7.1 Different methods of disposal have different advantages and disadvantages. The appropriate method depends on the Council's disposal objectives, the type of asset and the circumstances of the disposal such as market conditions. The main disposal methods are:

- Public Auction
- Formal Tender
- Informal Tender
- Negotiated Tender
- Private Treaty
- Joint Disposal
- Exchanges of Land and Property
- Unsolicited Offers

### **7.2 Public Auction**

7.2.1 The Council will use the services of an appropriately qualified auctioneer. An open auction is available to anyone and sales are publicly advertised in advance. Auctions have the advantage of being transparent and fair and allow for transactions to be completed quickly but can depend on there being a range of interested bidders present at the auction. A binding legal agreement is created when a bid is accepted by the auctioneer enabling the transaction to be completed quickly so it is vital that all details required to complete a sale are prepared in advance (e.g. legal title issues).

7.2.2 A guide price and reserve price can sometimes be specified by the Chief Property Officer in consultation with the auctioneer. The contract with the auctioneer sets out the arrangements that apply in the event of subsequent sale of a property that has failed to meet the reserve price in the auction. An auctioneer sometimes receives an offer for a property prior to the auction and may recommend acceptance. The Chief Property Officer determines whether the offer should be accepted and the property withdrawn from the auction sale.

### **7.3 Formal Tender**

7.3.1 A sale can be publicly advertised by the Council or by an external agent and tenders submitted by a given date. There is no negotiation after the deadline for receipt of tenders, and once a tender is accepted it constitutes a binding contract of sale. This approach also enables a transaction to be completed quickly but requires detailed and precise preparation.

7.3.2 The Council will issue tender documents relating to the sale and the Chief Property Officer may specify a guide or minimum price. The tender conditions should stipulate that the Council is not bound to accept the highest or any other tender. It may be necessary to meet prospective bidders to clarify points concerning the disposal details but there should be no discussion of the valuation of the asset. Discussions regarding planning, highway or other issues affecting the tender submission are allowed. Any information or clarification relevant to the disposal must be made available to all prospective bidders.

7.3.3 Tenders are submitted as sealed bids which are opened by a representative of Property Services and with appropriate witnesses to satisfy audit requirements.

## **7.4 Informal Tender**

- 7.4.1 Informal tender is commonly used when the Council has a reasonably clear ideas of disposal terms that can be included in the tender documentation. The property will usually be advertised on the open market by the Council or an external agent and offers are invited by a given date and are usually subject to contract. The Chief Property Officer may specify a guide or minimum price in tender documentation. Negotiations may continue after tenders are received and different bidders may compete to offer the most advantageous price or terms.
- 7.4.2 The Chief Property Officer may discuss details of offers with the highest or best bidder(s) and incorporate negotiated details into contract documentation. The sale price offered may be subject to detailed negotiation where matters of detail have a material bearing on value of the interest. The Chief Property Officer will consider a finally agreed sale price taking into consideration the statutory requirement to obtain best consideration. A binding legal agreement is created on exchange of contracts with the chosen tenderer.

## **7.5 Negotiated Tender**

- 7.5.1 A Negotiated Tender is commonly used when it is impractical for the Council to specify precise terms in the tender documentation. This approach is often used for disposals involving the development of land and property. Tenders are invited by a given date and are subject to contract as terms and conditions cannot be precisely defined at this stage. Negotiations may continue after tenders are received, with different bidders competing to offer the most advantageous terms.
- 7.5.2 Criteria for the evaluation of tenders must be set clearly to form part of the invitation to tender documentation so that they are available to all parties before the evaluation process begins and all prospective purchasers are competing on an equal basis. In order to demonstrate good practice and to avoid allegations of impropriety or corruption, the selection criteria should not be changed during or after the evaluation of tenders. Tenders are usually evaluated having regard to both financial offers and other factors, such as proposed use, job creation, regeneration impact etc.
- 7.5.3 The Chief Property Officer will consider a finally agreed sale price and other factors in the evaluation of offers taking into consideration the statutory requirement to obtain best consideration. A binding legal agreement is created on exchange of contracts with the chosen tenderer.

## **7.6 Private Treaty**

- 7.6.1 The sale of land is sometimes negotiated with one or a small number of potential buyers at a price agreed between the parties, usually, but not always, following a marketing exercise. Private sale can be straightforward but is likely to be appropriate only in certain circumstances and care must be taken to ensure best consideration is achieved where the property has not been marketed.
- 7.6.2 Disposals by private treaty are usually time-limited and if negotiations have not been finalised by a certain date the property will be remarketed unless there is a specific reason for an extension of time.
- 7.6.3 A prospective purchaser may be given a period of exclusive negotiating rights to seek planning consent or other necessary approvals such as grant funding.
- 7.6.4 If negotiations with a prospective purchaser reach a mutually acceptable conclusion the position will be deemed to be exclusive, subject to the requirements to achieve best



consideration and the incidence of any unsolicited offers for the property. If legal documentation is not finalised and a contract for sale/lease is not exchanged within the agreed time period the property will be remarketed.

- 7.6.5 If further offers are received for a property prior to negotiations with a prospective purchaser reaching a mutually acceptable conclusion, the Chief Property Officer will invite final and best offers by an appropriate date from all the prospective purchasers who demonstrate the ability to fund the proposed transaction. The invitation of such offers does not constitute a tendering exercise. A binding legal agreement is created on exchange of contracts.

## **7.7 Joint Disposals**

7.7.1 The Council may choose to carry out joint marketing and/ or disposal with an appropriate partner. This may arise, for instance, where the Council as ground landlord agrees with a head lessee to market their joint interest or agrees to undertake a joint disposal with an adjoining property owner. It is necessary to demonstrate that this will secure best consideration. The Chief Property Officer will approve all details of the approach to be adopted for the disposal and these should follow the general principles of this Framework as though the Council was disposing of its sole interest in the property.

7.7.2 The Chief Property Officer will consider the nature of the partner's legal interest in the property, any intention of the partner to purchase the Council's interest or any potential conflict of interest which may arise. The Council and the partner enter into a written agreement for the disposal covering the process to be followed, the share of both the anticipated capital receipt and responsibility for all costs and liabilities that may arise. The partner must declare any relationship with any potential purchaser and/or developer at the outset. The disposal agreement shall be drawn up to incorporate the key principles of these guidelines:

- To ensure the best terms available are obtained by the Council
- To allow all interested parties of credible status or expertise, and with appropriate proposals, an equal opportunity to purchase
- To avoid partiality or bias.

7.7.3 Tenders or offers shall not normally be accepted from the partner or any purchasers with whom the partner has a relationship unless circumstances dictate this would be in the best interests of the Council.

## **7.8 Exchanges of Land and Property**

7.8.1 Where a disposal is by way of an exchange of any interest in land or property with another party (e.g. an adjoining landowner) best consideration should be secured unless the transaction falls within the scope of the General Consent. The land or property should be of equal value with any difference being compensated for by payment and value must reflect future development potential, marriage value etc.

## **7.9 Unsolicited Offers**

7.9.1 The Council sometimes receives interest in or offers for land and property which may not have been offered for sale and/ or may not have been declared as surplus (see section on Surplus Declaration). The Chief Property Officer, in consultation with the Director of the holding Service, shall determine whether it is appropriate to treat with the bidder, expose the property to the open market or indicate that the property is not available at the present time for disposal where a property has not been formally declared as surplus.

7.9.2 In accordance with the requirement to obtain best consideration and associated case law, the Council is obliged to seriously consider any unsolicited offer that may be received in respect of a surplus property for which a prospective purchase has been identified and Legal Services instructed up to the point of legal commitment to the sale. The Chief Property Officer will consider how to proceed based on the specific facts of the case.

## **7.10 Special Purchasers**

7.10.1 Sometimes it may be beneficial for the Council to offer direct negotiations with a special purchaser without resort to marketing. Special purchasers include:

- A sitting tenant or other party already having a proprietary interest in land
- developer with a major investment project
- locally based company or other significant employer seeking to expand
- adjoining landowner
- developer offering a public/private partnership with special focus on the land/property in question
- developer offering open book terms
- inward investor bringing new development/job creation to the city
- Private Registered Provider of Social Housing
- historic buildings trust or similar that have the experience, skills, capacity, and resources to deal with heritage property
- community based organisation seeking to acquire land or property under a community asset transfer where the organisation is properly constituted and has the experience, skills, capacity, and resources to deal with management and maintenance of the property

Disposal to a Special Purchaser should either deliver Best Consideration or the Council must formally approve disposal at less than Best Consideration where the disposal meets the relevant criteria. Any agreement with a private developer must comply with the Public Contracts Regulations 2015 and legal advice must be sought before agreeing any heads of terms.

## **7.11 Property with Development Potential**

7.11.1 Where in the opinion of the Chief Property Officer, it is advantageous to sell property with the benefit of planning permission or a planning brief defining the Council's requirements, the property shall not be marketed until such permission has been obtained or documents prepared. Where the scope of development potential or future property values or 'overage' is in doubt, 'claw back' provisions may be considered where appropriate to enable the Council to benefit from any subsequent and more valuable permitted use.

## APPENDIX 1

### SURPLUS PROPERTY DECLARATION

#### 1 OPERATIONAL PROPERTY

- 1.1 Wherever possible, Services should notify Property Services and Facilities Management as soon as possible when they believe there are changes to the use of a property they occupy. This may be where the service is undertaking a review; when property has become unsuitable for purpose; where a property is significantly underused; when the service is relocating or vacating the premises; or no longer intend to use the property for the purpose for which it was originally acquired or held.

It is important that this is done as early as possible to avoid ongoing costs to the Service or the Council in holding or retaining property and to ensure that the overall property implications can be considered and alternative uses or preparations for disposal can be commenced before the property is vacated.

#### 1.2 Alternative Service Use

Once a property (or part of) is no longer required by an occupying service. Property Services and Facilities Management will prepare a report setting out:

- Full details of the property (size & layout metrics, M&E, facilities etc)
- Current annual operating costs (utilities, services, repair & maintenance, rates etc)
- Property condition and extent of backlog maintenance required
- Legal title and details of any leases or other interests
- Energy Rating and carbon considerations
- Likely holding costs including vacant property management
- Capital and rental values
- Potential opportunities for reuse.

The report will be circulated for consideration to members of the Estates Management/Assets Optimisation Board and to other Council Service Directors. Services should indicate any initial interest for use within 14 days.

All services who have expressed an interest in potential use of the property will then complete an Expression of Interest (EoI) Form (see Appendix 2) within 1 month. The EoI form will provide sufficient information for a fully informed decision to be taken on the future of the property including:

- Full details of the property (size & layout metrics, M&E, facilities, condition, running costs and legal details etc) as set out above
- The needs of an incoming service and the service users/ customers
- Contribution to Service Plan/council objectives of the proposed use
- opportunities for co-location or shared service delivery with partners
- Suitability for proposed use
- Capital funding required to repurpose and any alterations required
- Delivery timescale
- Financial implications and source/confirmation of funding.

Expressions of Interest will be considered by the Estates Management/Assets Optimisation Board who will advise on the proposed way forward. If a Council service registers an interest in taking on a property surplus to the requirements of the current service, they shall be required

to demonstrate how use of the property would fit with their Service Plan and produce a business case to demonstrate the viability of their proposals. The business case will be considered alongside any other potential options. This will be considered through appropriate corporate governance procedures with input from Property, FM, CDS, Legal and Financial Services as required.

If it is proposed to re-use a property for a purpose other than that which it is held (even if that purpose is within the same portfolio), a formal appropriation decision must be made by Strategy and Resources Policy Committee or Finance Sub-Committee. This may in some instances include obtaining the consent of the Secretary of State.

### **1.3 Surplus Declaration Procedure**

Once property has been identified as surplus to requirements, the relevant service in consultation with Property Services shall prepare a Surplus Declaration Report for consideration by the Executive Director of the holding portfolio who shall formally declare the property surplus to the requirements of that service.

The Chief Property Officer in consultation with Executive Director of Resources will advise whether the property should be subject to disposal or retained and re-used by other services. Re-use or disposal of assets will be in line with approved corporate policy and delegated decision making.

### **1.4 Interim & Vacant Property Management**

Management of property declared surplus to requirements shall transfer to the Head of Facilities Management when it has been vacated by the occupying Service along with all revenue budgets for the operation and repair of the property.

### **1.6 Future Management Arrangements for Alternative Service Use**

If it is determined that a property shall be retained for use by another service, arrangements will be put in place with Property Services and FM (e.g. via a Service Level Agreement) for management and cost recovery.

### **1.7 Surplus to Council Requirements & Available for Disposal**

If a property is not required for alternative service use and is declared surplus, the Chief Property Officer shall dispose in accordance with this framework, the Council's constitution and associated governance process and any statutory consents that may be required.

Public sector partners shall also be notified of the availability of the surplus property, and the ongoing asset rationalisation process will consider the property in the context of One Public Estate

### **1.8 Statutory Notices for Disposal or Appropriation of Public Open Space**

If the land is deemed to be Public Open Space then the Council is required by the Local Government Act 1972 to advertise the proposed sale or appropriation within a local newspaper for two consecutive weeks and consider any objections received.

## **2.3 NON-OPERATIONAL PROPERTIES & COMMERCIAL PROPERTIES**

- 2.3.1 Where a property is let to or occupied by third party use and becomes vacant the Chief Property Officer will use the same process set out above for Operational Properties to review the potential for re-letting, re-purposing for use by other Council services etc.

2.3.2 Where the property is still considered to be surplus to the requirements of the Council then the Chief Property Officer will consider disposal in consultation with the Executive Director of Resources if either of the following conditions is met:

- The property is not required for current or future Council service delivery and the property scores below an agreed level of financial return (to be determined by the Chief Finance Officer in the light of benchmarking/prevaling market conditions) when subjected to a detailed options appraisal; or
- Where investment property is vacant or there is a reasonable likelihood of it becoming vacant and the property is not required for alternative service provision

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