

MIDDLESBROUGH COUNCIL

EXECUTIVE SUB-COMMITTEE FOR PROPERTY

Asset Disposal Policy

Executive Member for Finance, Governance & Support Cllr Nicky Walker

Strategic Director for Finance, Governance & Support: James Bromiley

7th December 2016

PURPOSE OF THE REPORT

1. To clarify the options open to the Council when choosing to dispose of assets, and to provide a framework for decisions to be considered in the light of the responsibility to support communities and stimulate economic activity in Middlesbrough.
2. To seek approval for consolidated arrangements for the disposal of Council Land and Property assets.

SUMMARY OF RECOMMENDATIONS

3. That Executive note that the Council is able to dispose of assets for the purposes of supporting communities, stimulating economic activity and generating funds for the delivery of services, and that they are able to balance these factors when considering disposals.
4. That the Asset Disposal Process outlined in this report, together with the proposed scheme of delegation is implemented.

IF THIS IS A KEY DECISION WHICH KEY DECISION TEST APPLIES?

! It is over the financial threshold (£150,000)	<input checked="" type="checkbox"/>
It has a significant impact on 2 or more wards	<input checked="" type="checkbox"/>
Non Key	<input type="checkbox"/>

DECISION IMPLEMENTATION DEADLINE

6. For the purposes of the scrutiny call in procedure this report is

Non-urgent	<input checked="" type="checkbox"/>
Urgent report	<input type="checkbox"/>

BACKGROUND AND EXTERNAL CONSULTATION

7. Middlesbrough Council holds a significant asset portfolio that is used to deliver services, support businesses and contribute to the well-being of the town. The acquisition and disposal of assets is essential to enable the Council to update its asset portfolio to meet the changing needs of Middlesbrough.
8. The external audit opinion of the Council's Value for Money Statement has been qualified in 2014/15 and 2015/16, in both years the opinion referenced issues with the asset disposals process. The point made by external auditors was specifically in relation to a need for greater clarity in the audit trail as an asset moves through the process towards disposal. In relation to asset disposals there was no finding of wrong doing by officers or members, nor was there any criticism of values realised for assets, the point made was that the evidential trail around decision making should be improved.
9. On 20 May 2014 the Executive agreed the Middlesbrough Council Estates Strategy 2014-19, this strategy set out a revised approach to the Council's assets based upon the five categories below;
 - To generate revenue streams
 - To generate capital receipts
 - To stimulate economic activity
 - To support communities
 - To deliver operational services
10. Following this report on 17 March 2015 the Executive agreed a report on Management of the Council's Land and Property Assets which gave approval to new arrangements for the management of Council Land and Property Assets.
11. The continued qualification of the Value for Money Statement suggests that we need to maintain the focus on asset disposals and further build on the report of March 2015 to ensure that the Council is better able to evidence to decision makers how decisions on disposals align with the Estates Strategy framework.
12. This report will therefore set out revised arrangements for the asset disposal process and plans to embed the new way of working within the authority to ensure a clear and transparent process around all disposals.

Legislative Framework

13. The disposal of local authority assets is governed by the General Disposal Consent (2003) under the Local Government Act 1972. This consent gives councils the power to dispose of assets for market value or for less than the market value for the following reasons;

- The promotion or improvement of Economic well-being;
- The promotion or improvement of Social well-being and / or;
- The promotion or improvement of Environmental well-being.

14. Therefore, when deciding to dispose of an asset, the Council has a number of options to consider around the aims and objectives of the disposal which could then influence the method of disposal utilised.

15. It is therefore key that when a disposal is considered the aims and objectives of the disposal are clearly understood and documented in order that the most appropriate method of disposal may be selected and the correct factors can be taken into account when making a final decision to dispose.

Clear Objectives from the Outset

16. The Council's property assets will be kept under active management and be assessed with those properties that are the most appropriate being brought forward for disposal. This process will be overseen by the Council's Asset Management Team. Reasons for disposal could include;

- Operational assets that are no longer required for the provision of services and / or a drain on the Council's resources;
- Commercial assets that are poorly performing in terms of income generation;
- Properties that have been identified as having the potential to support the voluntary sector in its work within the town;
- Properties that could have a catalytic effect on economic and / or social regeneration within the town.

17. At the point of the decision to dispose it is essential that a Disposal Business Case (attached at Appendix 1) be completed in order to establish the preferred use for the asset. This should take into account regeneration plans for the area, the market value of the property along with any other outcomes required from the disposal. Other outcomes will include the potential social value offered by any sale, such as job creation and community benefits.

18. Completion of the Disposal Business Case will give a baseline to refer back to as the disposal progresses offering guidance as to the purpose behind the disposal and the circumstances of the property. It will also give clarity as to which of the Council's disposal streams the asset falls under;

- To generate capital receipts
- To generate revenue income for the Council
- To stimulate economic activity
- To support communities

19. The stream will determine the key drivers in decision making. In addition the information documented in the Disposal Business Case will form the basis of any scoring matrix when assessing the most suitable tenders for an asset disposal. Significant required change of preferred criteria used to score tenders would require the Disposal Business Case to be revisited and approved as appropriate.
20. The Disposal Business case will be authorised in the first instance by the Head of Asset Management to ensure that the disposal of the asset is in line with the Council's overall Estates Strategy. The disposal will then be approved as follows, depending on the estimated value of the asset;
 - Head of Financial Planning and Support up to £50,000.
 - Strategic Director of Finance, Governance & Support up to £150,000.
 - Executive Sub Committee for Property over £150,000.

Assessing the Value of Disposals

21. In order for the Council to make properly informed decisions around disposal the market value of the existing use of each asset must be sought at the point of the decision to dispose. Where appropriate the Strategic Director of Finance, Governance and Support should request a professional valuation via the Valuation and Estates team for potential alternative uses for a site / property that may provide an improved return for the Council than the existing use.
22. A valuation is required because the valuation of an asset on the Council's balance sheet is likely to be different to its market value. For accounting purposes the valuation used for the balance sheet is usually based upon the replacement cost to the Council of the asset rather than what might be achieved if it is sold on the open market. Therefore an open market valuation is required before the disposal process commences.
23. At this stage it is also important for the Council to assess if some investment in the property, for example around ground investigations or planning consents, would be likely to increase the potential income receivable from the disposal.
24. As set out above the Council is not bound to make decisions around disposals based upon purely financial criteria, it is however essential that the financial position is clearly set out so that the opportunity cost of delivering other factors can be properly understood.
25. If the Council clearly understands the market value of an asset with no constraints on the use a purchaser may make of the asset then it will be able to assess how much potential capital receipt would need to be

sacrificed in order to achieve a desired social, economic or environmental outcome. The Council is then free to conclude that the reduction in capital receipt is worthwhile in order to obtain the social value offered by the prescribed use.

26. It is also important that future revenue streams such as Council Tax, New Homes Bonus and Business Rates are properly factored into the equation when assessing the potential benefit to the Council of a transaction. Any assessment of a disposal must take into account the medium to long term and pick up these issues alongside the capital receipt and any short or long term liabilities.

The Disposal Process

27. Appendix 2 sets out a process which assets should follow once they have been determined as ready for disposal. It is envisaged that this process will facilitate speedier decision making and expedite asset disposals to proceed to a quick conclusion as appropriate.

28. The delegation of responsibilities for the disposal of assets are outline below;

- Head of Financial Planning and Support up to £50,000.
- Strategic Director of Finance, Governance & Support between £50,000 and £150,000.
- Executive Sub Committee for Property over £150,000.
- Any proposed sale that is less than the asset value for current use determined in the Disposal Business Case will require the approval of the Strategic Director of Finance, Governance and Support in their role as S151 officer and the Head of Legal and Democratic Services as Monitoring Officer prior to any of the authorisations taking place. This will apply to any proposed sale:-
 - **For Assets valued below £50,000**
£10,000 variance from asset value
 - **For Assets valued between £50,000 and £150,000**
Above 20% variance from asset value
 - **For Assets valued above £150,000**
Above 20% variance from asset value or £150,000 variance from asset value

29. All new leases, renewals, variations and associated rent reviews will be signed off by the Valuation and Estates Manager.

Embedding the Disposal Process

30. Asset disposals can be key to delivering the objectives of many different areas of the Council and there are therefore a wide range of stakeholders who need to understand and act within the council's asset disposal process. In addition there are a range of professional disciplines such as legal, valuations and finance that are required to contribute to the process.
31. Senior officers and members of the Council must continue to carry out their roles and responsibilities in relation to asset disposals and act as champions of the process to ensure the integrity of asset disposal decisions.
32. These group have been consulted during the formulation of the asset disposal process and their views taken into account. However it is key that subsequent to this process being approved an intensive piece of communication and engagement is required to complete the embedding of the process. In order to achieve this appropriate engagement will take place with;
- Members
 - Leadership Management Team
 - Management Network
 - Departmental Management Teams as appropriate
 - Professional staff groups in valuations, legal and finance
 - Key staff groups such as regeneration professionals, and
 - The Council's independent Internal Audit service
33. Embedding will be carried out using the following methods;
- Face to face training on the new policy
 - Wide circulation of the new policy alongside the rationale for the new approach to asset disposal
 - Online guidance with contact officers for different stages of the process, and
 - The controls built into the new policy guiding officers to seek the appropriate advice at each stage of the process
34. It is envisaged that this embedding work will be complete by the end of February 2017 and subsequent to this date the Internal Audit service will be asked to carry out an independent assessment of the effectiveness of the embedding process. This assessment will then be considered and further work carried out if deemed necessary.

Compliance with the Asset Disposal Process

29. Ensuring that the Council's assets are disposed of properly and in the best interests of the town is a key duty of the Council, this can be made more complicated by the number of different considerations and stakeholders that can be involved in any given transaction. As a result of this situation it is important that the Council's officers take a proactive approach to ensuring compliance with the asset disposal process, with this aim the following measures are proposed.
30. A consolidated Asset Disposal Control Document of all current asset disposals to be maintained by the valuation and estates team, a sample of this document is attached at Appendix 3. This document will contain a high level summary of relevant information including;
 - Date of the decision to dispose and expected completion date
 - Relevant Asset Stream for the asset
 - Expected Capital Receipt (if any)
 - Next milestone in process
 - Latest valuation of the asset
31. The Asset Disposal Control Document will be built up from each assets Individual Disposal of Asset Control Document attached at Appendix 4. This document will sit at the front of every live asset disposal file and provide an easy reference for all decisions on the disposal to enable an effective audit trail to be maintained.
32. The consolidated Asset Disposal Control Document will be required to be signed off by the Strategic Director of Finance, Governance and Support in his role as S151 officer in the first week of each month in order to demonstrate his assurance that the Council understand the current situation with all asset disposals. In addition the document will be circulated monthly to key senior officers as a cross reference to ensure that no work is being carried out on asset disposal outside of the Council process and that the valuation teams understanding of the current position is correct and up to date.

IMPACT ASSESSMENT (IA)

33. Impact assessments will be carried out on any asset disposal as appropriate.

FINANCIAL, LEGAL AND WARD IMPLICATIONS

34. The disposal of property and assets are governed by the Council's standing orders and government legislation.
35. The proposed financial thresholds for disposals are set out elsewhere in this report

RECOMMENDATIONS

36. That Executive note that the Council is able to dispose of assets for the purposes of supporting communities, stimulating economic activity and generating funds for the delivery of services, and that they are able to balance these factors when considering disposals.
37. The proposed Asset Disposal Process is approved together with the proposed scheme of delegation.

REASONS

37. To ensure that the Council has an asset disposal process which is responsive, fit for purpose and allows the Council to clearly demonstrate Value for Money in relation to asset disposals.

BACKGROUND PAPERS

38. The following background papers were used in the preparation of this report:
 - Executive, 20th of May 2014, "Middlesbrough Council Estate Strategy 2014-19".
 - Executive, 17 March 2015, "Management of the Council's Land and Property Assets".
 - Executive, 31 March 2016, "Corporate Peer Review – Final report and draft action plan".
 - Executive, 10 May 2016, "Council Improvement Plan"
 - Corporate Affairs and Audit Committee, 30 June 2016, "Council Improvement Plan"
 - Executive Member for Finance and Governance, 8 September 2016, "Council Improvement Plan"
 - Corporate Affairs and Audit Committee, 29 September 2016, "Council Improvement Plan"

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