

Report of:	James Bromiley, Strategic Director of Finance, Governance & Support Cllr Chris Hobson, Executive Member for Finance & Governance
Submitted to:	Executive Committee - 21 January 2020
Subject:	Estates Strategy - Asset Disposal Policy

Summary

Proposed decision(s)
That Executive notes the Council is able to dispose of assets for the purposes of supporting communities, stimulating economic activity and generating income streams, and that it can balance these factors when considering disposals. That the Asset Disposal Policy and process outlined in this report, together with the proposed scheme of delegation is adopted and implemented.

Report for:	Key decision:	Confidential:	Is the report urgent?¹
Decision	Yes – impacts upon all wards	No	No

Contribution to delivery of the 2018-22 Strategic Plan		
Business Imperatives	Physical Regeneration	Social Regeneration
The proposal to create a new policy will provide a decision making framework from which the Council can work effectively to support both physical and social regeneration across the Borough.	Implementation of the policy will help ensure balanced decisions are taken by the Council – where judgement is required to consider the potential for asset disposals that enhance the reputation of Middlesbrough and create opportunities for its people.	Adoption of the policy will enable the Council to put in place protocol designed to regulate the process of asset disposal – from which the Council can stimulate economic activity for the benefit of people living and working within the Borough.

Ward(s) affected
All Wards

What is the purpose of this report?

1. To clarify the options open to the Council when choosing to dispose of assets, and to update the existing decision framework in the light of the responsibility to support communities and stimulate economic activity in Middlesbrough.

Why does this report require a Member decision?

2. The policy proposal forms part of the Council's Estates Strategy and has the potential to impact upon all wards.

Report Background

3. 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.
4. A significant level of audit trail clarity is needed as an asset moves through either the acquisition, or the disposal process. The evidential trail around decision making in both processes must be clear and transparent.
5. Asset disposals are an essential part of the delivery of the Council's Estates Strategy, which is intended to support the Mayor's priorities around people, place & business in addition to delivering the Council's Strategic Priorities of:
 - Physical regeneration
 - Social regeneration
 - Business imperatives
6. The Estates Strategy has been put in place to set out how the Council will manage its property portfolio. It groups the Council's property assets under five categories, to ensure that they are being effectively managed (properties can move across these groups and may be applicable to more than one group because of the nature of the asset). The five categories are:
 - To generate revenue streams
 - To generate capital receipts
 - To stimulate economic activity
 - To support communities
 - To deliver operational services
7. This report sets out the proposed arrangements for the asset disposal process, and also the plans to embed the new way of working within the authority, so as to ensure that the process of disposal is both clear and transparent.
8. The Asset Disposal Policy will apply where a business case for disposal of a property asset has been prepared by the responsible Service Team Officer and approved by the Head of Asset Management, based on due consideration of the Council's Estates Strategy aims.

Legislative Framework

9. 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
 - The promotion or improvement of Environmental well-being
10. 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.
11. 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.

Process Objectives

12. The Council's property assets will be kept under active management and be assessed with those properties that are 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 demonstrable effect on economic and/or social regeneration within the Town.
13. 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 – such outcomes will include the potential social value offered by any sale, such as job creation and community benefits.
14. 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

15. 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 in the preferred criteria used to score tenders would require the Disposal Business Case to be revisited and approved as appropriate.
16. 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;
 - Valuation & Estates Manager – meets the non key decision test and up to £50,000.
 - Director of Legal & Governance Services – meets the non key decision test and up to £150,000.
 - Executive Committee – meets the key decision test (one element of this is that it is over £150,000).
17. This policy will be reviewed every three years, unless case law, legislation or changes in best practice require it to be reviewed sooner.

What decision(s) are being asked for?

18. That Executive notes the Council is able to dispose of assets for the purposes of supporting communities, stimulating economic activity and generating income streams, and that it can balance these factors when considering disposals.
19. That the Asset Disposal Policy and process outlined in this report, together with the proposed scheme of delegation is adopted and implemented.

Why is this being recommended?

20. In order to create a decision making framework from which the Council can effectively support both physical and social regeneration across Middlesbrough.
21. 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 the disposal of assets.
22. The policy proposal supports delivery of the Council's Medium Term Financial Plan and is designed to correspond with the Council's Asset Acquisition Policy.

Impact(s) of recommended decision(s)

Legal

23. The disposal of assets is governed by the Council's standing orders and government legislation.
24. Adoption of the policy recommendation does not create any specific legal issues, although the process actions and any subsequent steps to implement the policy would need to be undertaken within the Council's legal framework.

Financial

25. The Asset Disposal Business case will be authorised in the first instance by the Head of Asset Management to ensure that the proposal to dispose of the asset is in line with the Council's overall Estates Strategy.
26. 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.
27. 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.
28. The disposal of the asset will then be approved, as per the delegation of responsibilities outlined below:
 - Valuation & Estates Manager – up to £50,000
 - Director of Legal & Governance Services – between £50,000 & £150,000
 - Executive Committee – over £150,000

Ward

29. Implementation of the policy will potentially impact on all wards over the duration of the policy.
30. Members will be consulted on subsequent proposals made in respect of specific asset disposal within their ward boundaries, as part of the normal planning process.

Policy Framework

31. The proposal does not require any change to the Council's existing policy framework.
32. The decision aligns to the Mayor's priorities around people, place & business, by putting in place a process that ensures the Council works as effectively as possible in support of physical and social regeneration.

Equality and Diversity

33. A Level 1 (Initial Screening) Impact Assessment (IA) will be carried out on individual asset disposals, if deemed appropriate.

Risk

34. Implementation of the policy will help address risk and remove potential for challenge by the adoption of a robust and responsive, fit for purpose decision making framework.

Actions to be taken to implement the decision(s)

35. Subject to Executive Committee approval, the Council moves to:
- a. Adopt the policy proposal from the date of determination
 - b. Commence implementation of the policy from the date of determination
 - c. Take the necessary steps required to embed the policy by 31st March 2020

Appendices

Appendix A – Asset Disposal Policy

Background papers

The following reports were used in the preparation of this report:

Body	Report title	Date
Executive Sub-Committee For Property	Asset Disposal Policy	7 th December 2016

Contact: **David Velemir, Valuation & Estates Manager**

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Asset Disposal Policy

Live from: January 2020

Live until: January 2023

Title	Asset Disposal Policy		
Creator	Author(s)	David Velemir	
	Approved by	Content to be approved by Executive Committee	
	Department	Finance, Governance and Support	
	Service area	Valuation & Estates	
	Head of Service	David Velemir	
	Director	James Bromiley	
Date	Created	January 2020	
	Submitted	January 2020	
	Approved		
	Updating Frequency	Every three years or as case law/legislation require changes	
Status	Version: 1.3		
Contributor(s)	David Velemir, Andrew Humble, James Bromiley, John Shiel, Martin Shepherd, Joanne Youngs Valuation & Estates		
	Legislation	Best Value Statutory Guidance, General Disposal Consent (2003), Local Government Act 1972.	
Subject	Asset Disposals		
Type	Policy		
	Vital Record		EIR
Coverage	Middlesbrough Council		
Language	English		

Document Control

Version	Date	Revision History	Reviser
1.0	December 2016	Policy content agreed within a report to Executive Sub-Committee for Property	Ian Wright
1.1	October 2017	Policy content transferred into a policy format – no change to content – signed off by Estates Strategy Board	Ian Wright / Ann-Marie Johnstone
1.2	January 2019	Additional guidance around what constitutes pipeline and active disposals	Ian Wright
1.3	January 2020	Policy content to be agreed within a report to Executive Committee	David Velemir

Distribution List

Version	Date	Name/Service area	Action
1.0	December 2016	LMT, Asset Management, Economic Development, Finance, Legal and Valuation and Estates staff	Disseminate
1.1	October 2017	LMT, Asset Management, Economic Development, Finance, Legal and Valuation and Estates staff	Disseminate
1.2	January 2019	LMT, Asset Management, Economic Development, Finance, Legal and Valuation and Estates staff	Disseminate
1.3	January 2020	LMT, Asset Management, Economic Development, Finance, Legal and Valuation and Estates staff	Disseminate

Scope and purpose

1. The acquisition and disposal of assets is essential to enable the Council to update its asset portfolio to meet the changing needs of Middlesbrough.
2. 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.
3. The purpose of this policy is to set out how the Council will manage disposal of its assets. It provides a framework for decisions to be considered in the light of the responsibility to support communities and stimulate economic activity in Middlesbrough.
4. This policy applies to all property assets owned by the Council. Where approval to dispose of property has been granted under previous policy, steps will only be taken to retrofit application of this policy to 'live' disposal cases.

Equality and Diversity

5. This policy will provide:
 - A clear framework for the disposal of assets
 - A process that will support effective management of the Council's property assets.

Drivers and enablers

6. Asset disposals are an essential part of the delivery of the Council's Estates Strategy, which is intended to support the Mayor's priorities around people, place & business in addition to delivering the Council's Strategic Priorities of:
 - Physical Regeneration
 - Social Regeneration
 - Business Regeneration
7. The policy has been put in place to set out how the Council will manage its property portfolio. The Council's Estates Strategy allows groups its property assets under five categories to ensure they are being effectively managed (properties can move across these groups and may be applicable to more than one group because of the nature of the asset). The five categories are:
 - To generate revenue streams
 - To generate capital receipts
 - To stimulate economic activity
 - To support communities
 - To deliver operational services
8. This policy applies where a business case for disposal of an asset is approved by the Head of Asset Management, as it is no longer required by the organisation for operational purposes and disposal is recommended based on consideration of the Estates Strategy aims.

9. In the interests of completeness there is also a record of assets defined as pipeline disposals – these assets do not yet have an approved asset disposal business case, as they are at an early stage of consideration for disposal and no decision has been made that the Council has a desire to dispose. Once it is clear that the Council no longer requires an asset and wishes to pursue disposal, a business case will be approved by the Head of Asset Management and these disposals will then be classified as active disposals and follow this policy.
10. 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;

Asset Disposal Triggers

11. The Council's property assets will be kept under active management and be assessed with those properties 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 demonstrable effect on economic and/or social regeneration within the Town
12. This list is not exhaustive and there may be other issues that trigger the rationale for disposal. The trigger(s) for disposal will be fully set out in the Asset Disposal Business Case (ADBC) (attached at Appendix 1). This will be completed in order to establish the preferred use for the asset.

Overview of the asset disposal process

13. The approval process can be broken down into six stages:
 - Stage 1 – Completion of the ADBC and seek decision to market for disposal
 - Stage 2 – Approval given to market the asset for disposal
 - Stage 3 – Marketing of the asset
 - Stage 4 – Approval of sale/decision not to sell based on the outcome of the marketing exercise
 - Stage 5 – Legal Services instructed
 - Stage 6 – Completion of sale
14. These stages are set out in detail in the flow chart attached to this policy at Appendix 2 and the detailed procedure note attached at Appendix 3.

Approval processes

15. The Head of Asset Management will provide initial approval of any Asset Disposal Business Case, to provide assurance that the asset is no longer required by the Council for operational purposes.
16. The approval to market, and final approval to dispose/not sell, will be taken by the following, depending on the estimated value of the asset by the:
 - Valuation & Estates Manager – meets the non-key decision test and up to £50,000.
 - Director of Legal & Governance Services – meets the non-key test and up to £150,000.
 - Executive Committee – meets the key decision test (one element of this is that it is over £150,000).

Overview of the asset disposal process

17. This policy will be reviewed every three years, unless case law, legislation or changes in best practice require it to be reviewed sooner.

Appendix 1

Asset Disposal Business Case

Asset Disposal Business Case

Name of Asset:	
Asset Register Number:	
Current Use:	
Valuation at Current Use (Asset Register)	
Reason for Disposal:	
Latest Valuation (Proposed Disposal)	

Asset disposal stream (Please Select):

Generate Capital Receipt	
Stimulate Economic Activity	
Support Communities	

(In the event of more than one stream being relevant, please rank in order of importance – 1, 2 & 3)

Officer requesting disposal (Responsible Service Manager):

Name:	
Position:	

Could the asset be disposed of for an alternative use that may give a higher capital receipt to the Council:

Yes		No	
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(To be completed by the Valuation & Estates Team)

If yes, please outline the potential use:

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Estimated Value at Alternative Use	£
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Is the Council proposing to dispose of the asset at an undervalue:

Yes		No	
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(To be completed by the Valuation & Estates Team)

If yes, please outline the reasons why, and how, the proposed disposal will secure, promote or improve economic & social well-being:

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Key factors to be considered when assessing potential disposals:

1.	
2.	
3.	
4.	

Any additional financial factors to be considered other than immediate capital receipt:

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Asset not needed by the Council – approved to proceed:

Head of Asset Management:	Date:

Preferred method of marketing:

Formal/Informal Offers	
Private Treaty	
Auction	
Community Asset Transfer Process	

(To be completed by the Valuation & Estates Team prior to marketing)

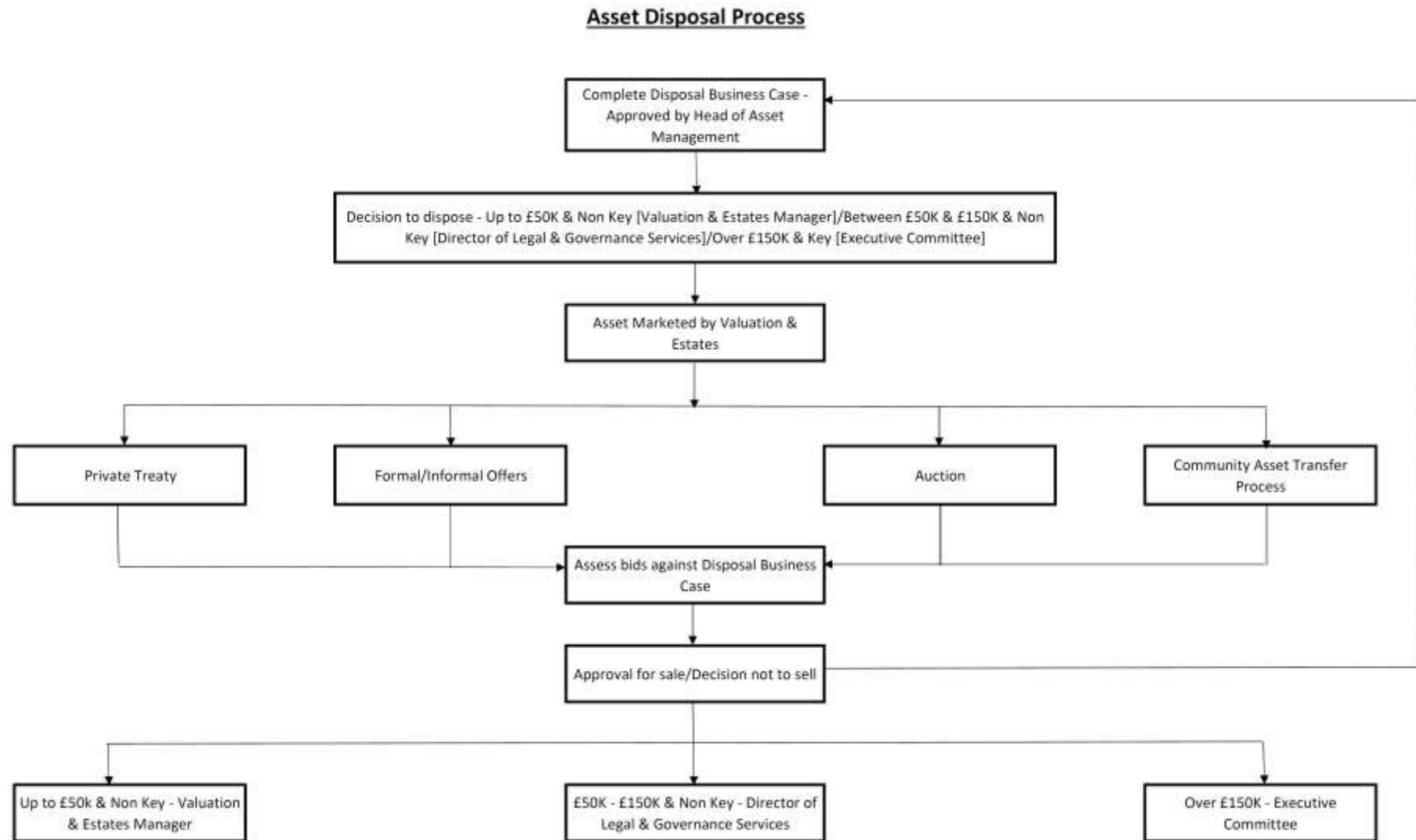
Method for final approval:

Estimated Value:	Approval Required:	Authorised:	Date:
Up to £50,000	Valuation & Estates Manager		
Between £50,000 and £150,000	Director of Legal & Governance Services		
More than £150,000	Executive Committee		

(To be completed by the Valuation & Estates Team prior to marketing)

Appendix 2

Asset Disposal Process Flow Chart



Appendix 3 – Detailed procedure note

This note should be read alongside the content of the Asset Disposal Business Case template form. It sets out actions that should be taken at each of the six stages of the asset disposal process:

- Stage 1 – Completion of the ADBC and seek decision to market for disposal
- Stage 2 – Approval given to market the asset for disposal
- Stage 3 – Marketing of the asset
- Stage 4 – Approval of sale/decision not to sell based on the outcome of the marketing exercise
- Stage 5 – Legal Services instructed
- Stage 6 – Completion of sale

Stage 1 – Completion of the ADBC

1. The completion of the Asset Disposal Business Case is the commencement of the asset disposal process under this policy. This represents the point where the Council decides that it wishes to actively consider disposal of an asset, prior to this point, consideration of the position of assets may still be monitored but will not be covered by this policy
2. Identification that the most appropriate way to manage an asset is to dispose of it, may come from a number of sources within the Council as part and parcel of day to day asset management. The source and rationale should be clearly recorded within the Asset Disposal Business Case 'reason for disposal' section. All ADBC's will be completed by the officer requesting disposal in collaboration with the Valuations and Estates Team.
3. The primary reason for disposal should be indicated, whether it is to:
 - Generate capital receipts.
 - Stimulate economic activity.
 - Support communities.
4. The rationale for selecting the reason should be fully set out in the ADBC in this section.
5. It is important to note that because the completed ADBC is approved by Head of Asset Management, that person will not commission any requests for disposals to avoid a potential conflict of interests, although officers within that service may do so.
6. The ADBC will identify whether an asset could be disposed of for an alternative use that may give greater benefit to the Council. The purpose of this free text section is to identify whether there are other uses that would generate a greater level of income than either the current use or the proposed use, if one has been suggested by the officer requesting disposal. To give an example that illustrates the thinking required for this section, a building valued by the Council at £10,000 may have attracted interest from a potential buyer who has offered £15,000 – but, as a cleared site, the asset might generate £100,000 in capital, plus housing that would attract new homes bonus payments and increase the Council Tax base of the Town. This last figure, with information on the additional benefits that could be derived, should be entered into the estimated value at alternative use in this example.

7. The next section of the ADBC will set out the key factors that should be considered when assessing disposals. Depending upon the asset, this might include:
 - Any regeneration plans for the area
 - The market value of the property
 - Any other outcomes required from the disposal that may include the potential social value offered by any sale, such as job creation and community benefits.
8. Again, this list is not exhaustive as it is impossible to anticipate every scenario that may result in an asset disposal.
9. 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, a professional valuation should be procured by the Valuation & Estates Team in order to properly consider the potential of alternative uses for a site/property that might provide an improved return for the Council than the existing, or identified, use.
10. 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.
11. 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 that could be generated by the disposal.
12. 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.
13. 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.
14. Subject to compliance with the requirements of statutory legislation, the Council is then able to conclude that the reduction in capital receipt is worthwhile in order to obtain the economic, social or environmental value offered by the prescribed use.
15. 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.
16. 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.

Stage 2 – Approval given to market the asset for disposal

17. The disposal will then be approved as follows, depending on the estimated value of the asset by the:
 - Valuation & Estates Manager – meets the non-key decision test and up to £50,000.
 - Director of Legal & Governance Services – meets the non-key test and up to £150,000.
 - Executive Committee – meets the key decision test (one element of this is that it is over £150,000).
18. Where approval is via an officer decision, this must be recorded and published following the Officer delegated decision making process. Democratic Services Officers can provide guidance on completion of this process.
19. Where a meeting of the Executive Committee is required, the Executive report process should be followed. Again, advice on this is available on the intranet, and from Democratic Services Officers.
20. Regardless of the approval route, the proposal to recommend marketing for disposal should be accompanied by sufficient information to provide assurance that the proposal is compliant with the Asset Disposal Policy.

Stage 3 – Marketing of the asset

21. The ADBC will identify the preferred method of Marketing as one of the following:
 - Formal/informal offers
 - Private treaty
 - Auction
 - Community Asset Transfer process

Stage 4 – Approval of sale/decision not to sell based on the outcome of the marketing exercise

22. The delegation of responsibilities for the approval of sales/decision not to sell are outlined below, and are based on the estimated value of the asset, not the sale offer(s) received;
 - Valuation & Estates Manager – meets the non key decision test and up to £50,000.
 - Director of Legal & Governance Services – meets the non key decision test and up to £150,000.
 - Executive Committee – meets the key decision test (one element of this is that it is over £150,000).

23. Any proposed sale that is less than the asset value for current use determined in the Disposal Business Case must be approved by the Strategic Director of Finance, Governance and Support in their role as S151 officer and the Head of Legal and Governance Services as Monitoring Officer prior to any of the authorisations taking place. This will apply to any proposed sale:
- **For Assets valued up to £50,000**
Above £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
24. In addition to any requests for wayleaves, easements, licences or associated deeds, all new leases, associated renewals, variations and rent reviews are to be signed off by the Valuation & Estates Manager.

Stage 5 – Instruct Legal

25. Once appropriate approvals are secured, instructions to proceed in line with those respective approvals should be issued in writing to Legal Services.

Stage 6 – Completion of Sale

26. Once contracts have been exchanged, the asset will be classified as a completed disposal – if the sale does not proceed, the asset will be reclassified as a legacy disposal, and go back to stage 3 of this policy process.