



## **Asset Disposal Policy**

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<b>Title</b>	Asset Disposal Policy		
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	Approved by	Content to be approved by Executive Committee	
	Department	Finance	
	Service area	Valuation & Estates	
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	Legislation	Best Value Statutory Guidance, General Disposal Consent (2003), Local Government Act 1972.	
<b>Subject</b>	Asset Disposals		
<b>Type</b>	Policy		
	Vital Record		EIR
<b>Coverage</b>	Middlesbrough Council		
<b>Language</b>	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
1.4	April 2021	Policy content to be agreed within a report to Executive Committee	Louise Grabham

#### Distribution List

Version	Date	Name/Service area	Action
1.0	December 2016	LMT, Asset Management, Economic Development, Finance, Legal and Valuation & Estates Teams	Disseminate
1.1	October 2017	LMT, Asset Management, Economic Development, Finance, Legal and Valuation & Estates Teams	Disseminate
1.2	January 2019	LMT, Asset Management, Economic Development, Finance, Legal and Valuation & Estates Teams	Disseminate
1.3	March 2020	Asset Management, Economic Development, Finance, Highways, Legal and Valuation & Estates Teams	Disseminate
1.4	April 2021	Asset Management, Economic Development, Finance, Highways, Legal and Valuation & Estates Teams	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 Finance – 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).
17. In the eventuality that an asset achieves a price in excess of the projected market value, 3% of the capital receipt will be made available for local community use for the ward in which the asset is located. The funding will be retained by the Finance Directorate and agreement for use will be determined in consultation with the following parties:
  - Director of Finance
  - Executive Member – Finance and Governance
  - Ward member in which asset was situated

This will ensure any capital receipt expenditure will meet accounting requirements.

## **Overview of the asset disposal process**

18. 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	Yes	No	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)

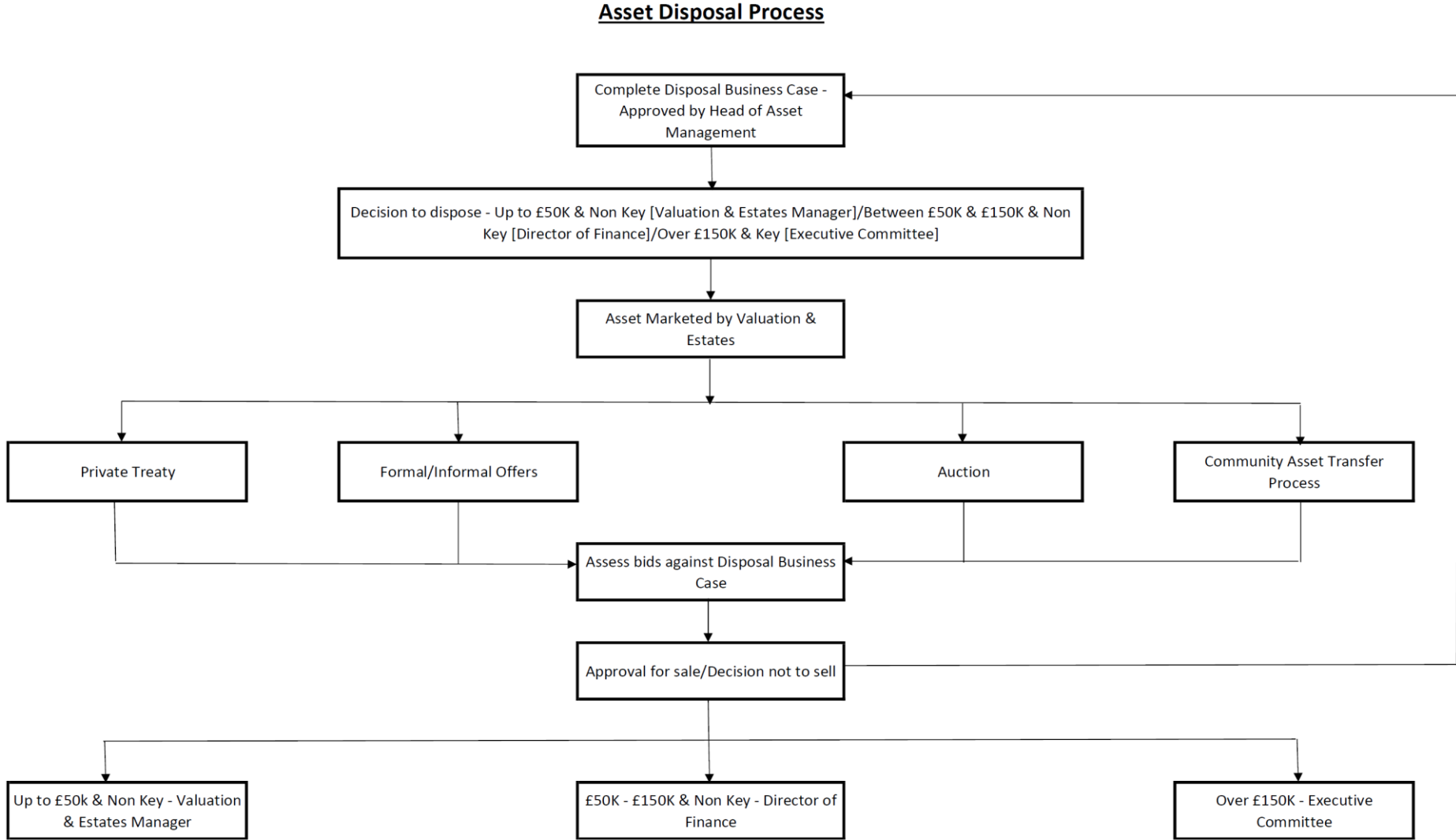
**Method for final approval:**

Estimated Value	Approval Required	Authorised	Date
Up to £50,000	Valuation & Estates Manager		
Between £50,000 and £150,000	Director of Finance		
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 Finance – 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 Finance – 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 Director of Finance in their role as S151 Officer and the Director 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. Fees will be demanded as standard by the Council in all disposal transactions – upon completion, purchasers will be required to pay the Council's reasonable legal fees (equivalent to 1.50% of the purchase price) and surveyors fees (equivalent to 2.00% of the purchase price). These fees will be subject to capped minimum payments of £1,500 (legal) & £2,000 (surveyors) and the authority to depart from this standard approach will be at the discretion of the Valuation & Estates Manager.

### **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.