

REPORT TO THE MEETING OF THE EXECUTIVE 5 SEPTEMBER 2018

PORTFOLIO: ENTERPRISE

REPORT FROM THE ASSISTANT DIRECTOR – COMMERCIAL SERVICES

SUBJECT: ASSET DISPOSAL FRAMEWORK

1 DECISION BEING RECOMMENDED

- 1.1 That the Asset Disposal Framework and amendment to the lease policy, as outlined in this report, be agreed.

2 REASON/S FOR RECOMMENDATION

- 2.1 Further to Members approving the Asset Strategy 2018-2028 ‘the Strategy’, and noting the potential Asset Delivery Programme at a meeting of the Investment Board on 10 July 2018 officers have prepared a Disposal Framework, (‘the Framework’) setting out the Council’s approach to disposal of its property assets.
- 2.2 The Strategy sets out the principles upon which the Council will make its capital investment decisions and the framework against which a potential Asset Delivery Programme would be developed and delivered. The Strategy also sets out that, in general terms, the Council may hold land and property to meet the following objectives: operational, financial, regeneration and heritage. The Council will review its assets periodically to ensure its assets continue to meet these objectives. If they do not, then disposal of the asset will be actively pursued as an option, subject to a business case and appropriate governance as set out in the Framework.

3 SALIENT INFORMATION

- 3.1 Having a Framework is key to achieving and delivering efficiency for managing the Council’s assets. The new Framework (Appendix 1) will provide a consistent approach to how the Council will dispose of surplus assets in light of a challenging financial environment. The Framework sets out the key considerations for disposal in line with legislation around local authority disposals. It complements and recognises the objectives of the Asset Strategy 2018-2028.
- 3.2 The Framework recognises that land may be identified for disposal through periodic review of the Asset Register (or by an approach by a third party) and subsequent analysis of the asset’s ability to meet the objectives as set out in the Strategy.
- 3.3 The Council will also notify local Social Housing Providers of any land which is identified for disposal.

3.4 GOVERNANCE

- 3.5 The Portfolio Holder for Enterprise is able to make a decision on disposal of land up to and including a value of £50,000. The Council's constitution enables the Executive to make decisions on disposal of land where the value exceeds £50,000.

3.6 LEASE POLICY AMENDMENT

- 3.7 It is proposed that the Council's lease policy is amended, namely that leases granted under the revised policy be granted without security of tenure.

4 RISK IMPLICATIONS

- 4.1 Holding surplus assets that are not required to meet the Council's strategic objectives, as laid out in the Asset Strategy 2018-2028, may result in these assets being underutilised and/or falling into disrepair. This may impact negatively on the Council's budget and staffing resources and will not deliver best value for the Council's residents.

5 RESOURCE IMPLICATIONS

- 5.1 Disposal of surplus assets, as defined within the Framework, will deliver capital receipts for the Council which can be used to support the Council's capital investment priorities as set out in its Asset Strategy 2018-2028.
- 5.2 As outlined in paragraph 4.1, holding surplus assets is not in the Council's interests as it will not deliver best value for money from the Council's estate. In particular the release of any surplus assets could potentially deliver revenue savings via reduced facilities management costs, as well as reducing the burden of future repairs and maintenance costs required to keep assets fit for purpose.
- 5.3 The Council has a duty to obtain best consideration in the sale of any assets (subject to the caveat detailed at paragraph 6.2); this may include investing in an asset prior to disposal to ensure the best possible return; for example, obtaining planning permission prior to sale. This would be set out in the relevant business cases as appropriate and be subject to the governance process set out in the Framework.
- 5.4 Although accounting policies dictate that capital receipts from disposal of fixed assets such as land and buildings must be ring-fenced for future capital expenditure, the Government has in recent years implemented a policy of allowing local authorities to use such receipts for transformational projects where these can clearly be demonstrated to generate ongoing savings to the authority. This flexibility was extended to 31 March 2019 in the 2018/19 financial settlement. This could, therefore, potentially release some monies for the Council to fund change projects during 2018/19 if required. Further details on the terms and conditions of this flexibility are provided in the Statutory Guidance issued by Ministry of Housing, Communities and Local Government (last updated 6 February 2018).

6 LEGAL IMPLICATIONS

- 6.1 The Council has a duty to dispose of land (including leases granted in excess of 7 years duration) at the best consideration that can reasonably be obtained under section 123 Local Government Act 1972. This is usually the price evidenced by an open market appraisal.
- 6.2 Disposal of land at an undervalue can only be undertaken in accordance with the guidance set out in Circular 06/03 Local Government Act 1972: General Disposal Consent (England) 2003.
- 6.3 Disposal of public open space requires the Council to carry out a public consultation and considers any representations received.

7 EQUALITY AND DIVERSITY IMPLICATIONS

- 7.1 An Equality Impact Assessment has been completed and found there to be no impacts (either positive or negative) on protected groups as defined under the Equality Act 2010.
- 7.2 Site specific Equality Impact Assessments would be completed as part of the disposal process.

I confirm that the above recommendation does not depart from Council policy and that appropriate consideration has been given to any budgetary and legal implications.

LT Lead Officer Signature: _____



Matt Harwood-White
Assistant Director – Commercial Services

Background Papers:- None.

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If you would like this report in large print, Braille or another language please contact 01702 318111.

Appendix 1

Rochford District Council

Disposal Framework

1. Introduction

The Disposal Framework. ‘the framework’ sets out the process through which the Council will identify and dispose of assets that do not meet its strategic objectives as laid out in the Asset Strategy 2018-2028 ‘the strategy’.

The purpose of the Framework is to inform officers, Members and other interested parties of the process and principles by which the Council will identify and dispose of surplus land and built assets.

The Council’s Asset Base

In general terms the Council may hold land and property to meet the following objectives:

1: Operational: To service our office accommodation needs for our staff or partners.

2: Financial To generate revenue income and/or for capital investment.

3:Regeneration / Development To regenerate an area of the District.

4: Heritage To promote the heritage offer for the local area.

An asset will be identified as suitable for disposal and surplus to requirements if it can not evidence how it meets at least one of the objectives outlined in the Asset Strategy in its current condition and use.

The Assistant Director: Commercial Services and the S151 will make the decision to proceed in principal, in consultation with the Portfolio Holder and / or Leader, dependent on the value of the asset. The final disposal will require the application of the appropriate governance route as below.

The Council has a general power of disposal, contained in Section 123 of the Local Government Act 197. , This provides that local authorities are not permitted to dispose of land for a consideration which is less than the best which is reasonably obtainable, unless they first obtain consent from the Secretary of State.

Assets to be considered for disposal will be identified through periodic review of the Asset Register. It will also need to be established whether there are any legal constraints, such as restrictions on land that would prevent disposal.

All negotiations for disposals should be advised by a suitably qualified property professional, preferably a member of the Royal Institution of Chartered Surveyors. This will include the production of Market Appraisals to demonstrate best consideration where appropriate.

The Council will aim to maximise its capital receipts, where possible, by enhancing the land prior to disposal; for example, by obtaining planning permission if this would result in a reasonable uplift in capital receipt after costs are taken into account.

A business case will be drafted and follow the appropriate governance arrangement as laid out below. A communication plan will also be considered to ensure residents and other stakeholders are aware of the Councils plans for site disposal when appropriate.

2 Disposal

The disposal of land is the transfer of a freehold or leasehold interest and grants of rights over land. This will include agreements to lease and options to purchase. The procedure for disposal of land is contained within this Framework.

Public Open space will not be disposed of unless there is a public interest and benefit to do so to meet the Council's corporate aims and objectives.

The Local Government Act 1972 and Town and Country Planning Act 1990 require a public consultation by placing advertising its intentions to dispose of public open space. Any objections will need to be considered prior to any final decisions on disposal.

The Council will dispose of assets by:

- Tender (Formal / Informal): by advertising and inviting sealed bids
- Private Treaty: In the case of limited interest, a marketing exercise would still need to be completed.
- Public Auction: If appropriate a reserve price will be set.

A valuation of the asset for disposal should be undertaken at the earliest opportunity in the process by a suitably qualified member independent valuer, prior to marketing for sale.

The Council has the power to dispose of land under section 123 of the Local Government Act 1972 at best consideration provided that land is not disposed, including leases granted in excess of 7 years, at an undervalue in accordance with the guidance set out in Circular 06/03 Local Government Act 1972: General Disposal Consent (England) 2003.

Where a disposal is to be disposed of at an undervalue the Council must be able to justify and evidence that the sale for a value less than best consideration is for reasons of social, economic or environmental benefits. In such cases it would require a full Red Book Valuation.

Leases will be subject to the Lease policy (Amended 2018)

3. Governance

The Constitution provides for the following delegations:

Disposals of land with a value of up to £50,000 is a decision of the Portfolio Holder for Enterprise.

Disposals of land with a value of £50,001 and above is a decision of the Executive.

September 2018

Disposal Framework: Procedure:

