

## MATTERS REFERRED TO THE EXECUTIVE AND REPORTS FROM OTHER COMMITTEES

### REPORT OF THE REVIEW COMMITTEE – 1 MARCH 2022

#### 1 DISPOSAL FRAMEWORK

- 1.1 This item of business was considered by the Review Committee at its meeting on 1 March 2022 with recommendations relating to the implementation of the Council's Disposal Framework. An extract of the key elements of the report to the Review Committee is appended.

#### 2 RECOMMENDATION

- 2.1 It is proposed that the Executive **RESOLVES**
- (1) That consideration of environmental and community/social value issues be included in the Disposal Framework.
  - (1) That community groups should not be disadvantaged in their ability to bid for assets during disposal of Council assets.
  - (2) That a Member Working Group be established, under the auspices of the Portfolio Holder for Commercial, Business, Local Economy and Leisure, to consider the use of risk assessments to inform disposal options. (ADAC)

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## DISPOSAL FRAMEWORK

### 1 PURPOSE OF REPORT

- 1.1 To provide an overview of the Council's Disposal Framework and summary of how it has been applied since its inception.
- 1.2 The Committee is invited to scrutinise the Framework and its implementation to date and to make recommendations to Executive as to how the Framework could be further developed to ensure it continues to inform any future asset disposals and reflects the Council's objectives.

### 2 INTRODUCTION

- 2.1 The Council resolved to agree the Disposal Framework ('the Framework') at a meeting of the Executive on 5 September 2018. The Framework sets out the Council's approach to disposal of its property assets.
- 2.2 The Framework is key to achieving and delivering efficiency for managing the Council's assets. The Framework (Appendix 1) provides a consistent approach to how the Council will dispose of surplus assets in light of a challenging financial environment and the Council's ambition to ensure its assets are fit for purpose.

### 3 PRINCIPLES OF THE FRAMEWORK

- 3.1 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 and the Lease Policy (as amended 2018).
- 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 Asset Strategy.
- 3.3 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 the Framework.
- 3.4 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.

- 3.5 Where an asset 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 are subject to the Lease Policy (as amended 2018). This ensures value for money can be evidenced and landlord and tenant responsibilities are clearly defined ensuring the asset is properly maintained.
- 3.6 In applying the Framework, the Assistant Director Assets & Commercial and the S151 Officer will make the decision to proceed in principle, in consultation with the Portfolio Holder for Commercial, Business, Local Economy & Leisure and/or Leader, dependent on the value of the asset. The final disposal will require the application of the appropriate governance route as below.
- 3.7 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 Commercial, Business, Local Economy & Leisure;
  - Disposals of land with a value of £50,001 and above is a decision of the Executive.
- 3.8 A communication strategy is considered to ensure residents and other stakeholders are aware of the Council's plans for site disposal when appropriate.

#### **4 APPLYING THE FRAMEWORK**

- 4.1 Examples of where the Framework has assisted Officers, in consultation with the Portfolio Holder and Leader in identifying assets for disposal include (this list includes both completed and ongoing projects):
- Hawkwell Pavilion: leased of the asset to Essex Hackspace. Full internal refurbishment and external works completed. A surplus asset repurposed to deliver community workshops and activities by Essex Hackspace.
  - Ashingdon Pavilion: part to be leased to Ashingdon Parish Council. External works and internal conversion and refurbishment for new Parish Office and to enable the public toilets to be reopened.
  - Ashingdon Pavilion: part to be leased to Ashingdon Pre-School to formalise current usage.
  - Crown Hill, former public convenience: marketing of the lease opportunity for this surplus asset. Site will be refurbished and reopened as an alternative use.

- Parcel of land off London Road, Rayleigh (access road to Rayleigh Town Sports & Social Club (RTSSC)): freehold sale. Rights of access maintained for both use by the Council and RTSSC.
- Great Wakering Public Conveniences: leased to Great Wakering Parish Council. External works and internal refurbishment of public toilets.  
  
Public Conveniences at Southend Road, Hockley: leased to Hockley Parish Council. External works and internal installation of new modern design toilets cubicles.
- Public Conveniences at Ferry Road, Hullbridge: leased to Hullbridge Parish Council. Demolish of existing facilities and installation of new purpose built modern toilet block.
- Public Conveniences at Crown Hill, Rayleigh: leased to Rayleigh Town Council. Development and installation of new purpose-built modern toilet block.
- Public Conveniences at Back Lane, Rochford: leased to Rochford Parish Council. External works and internal new installation of modern design toilets cubicles.
- Sport Ground, Land north of London Road: leased to Rayleigh Town Sports and Social Club for the benefit of sports activities.
- Land at Cagefield Road, Stambridge: freehold sale of land with the benefit of planning permission.
- The sites within the Asset Delivery Programme to deliver the objectives of the Asset Strategy 2018-2028. The future of the sites within this programme will be subject to a formal decision of Council.

- 4.2 The Committee is invited to scrutinise the Framework and its implementation to date and to make recommendations to Executive as to how the Framework could be further developed to ensure it continues to inform any future asset disposals and reflects the Council's objectives.

## 5 RISK IMPLICATIONS

- 5.1 Holding surplus assets that do not 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.

**6 CRIME AND DISORDER IMPLICATIONS**

- 6.1 Bringing vacant or underutilised assets back into use can have a positive effect in reducing crime and antisocial behaviour.

**7 ENVIRONMENTAL IMPLICATIONS**

- 7.1 None arising directly from this report. The disposal process should include consideration of the options available to improve the environmental sustainability of an asset.

**8 RESOURCE IMPLICATIONS**

- 8.1 There are no direct resource implications arising from this report.
- 8.2 The resource implications of any individual disposal decision are set out in detail in the relevant report.

**9 LEGAL IMPLICATIONS**

- 9.1 No other legal implications arising other than those mentioned in section 8.2 above.

**10 EQUALITY AND DIVERSITY IMPLICATIONS**

- 10.1 As no decision is being recommended, no Equality Impact Assessment (EIA) has been completed. However, EIAs are completed on a case by case basis as disposals come forward.

**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**

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**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.

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An asset will be identified as suitable for disposal and surplus to requirements if it cannot 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 Officer will make the decision to proceed in principle, 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 Council's 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:**

