



EXECUTIVE

Wednesday, 8 November 2023

10.00 am

**Council Chamber, Council Offices, Brympton
Way, Yeovil BA20 2HT**

SUPPLEMENT TO THE AGENDA

To: The members of the Executive

We are now able to enclose the following information which was unavailable when the agenda was published:

Agenda Item 9 Policy for the Disposal of Assets (Pages 3 - 16)

To consider the report.

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Decision Report - Executive Decision
Forward Plan Reference: FP/23/09/29
Decision Date – 8th November 2023
Key Decision – Yes



Policy for the Disposal of Assets

Executive Member: Cllr. Ros Wyke – Lead Member for Economic Development, Planning and Assets

Local Member(s) and Division: All

Lead Officer: Oliver Woodhams, Service Director Strategic Asset Management

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Author: Sally Stark, Assets Manager, Strategic Asset Management

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Updated Recommendations

The Executive agrees:

a) The approval of the Policy for the Disposal of Assets

b) To note that a subsequent Framework for Service and Asset Devolution will provide further, supplemental guidance covering the devolution of Assets to City, Town and Parish Councils.

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**Somerset
Council**

Policy for the Disposal of Assets

Organisation	Somerset Council
Title	Policy for the Disposal of Assets
Senior Responsible Officer	Service Director - Strategic Asset Management
Owner	Strategic Asset Management
Protective Marking	Unclassified
Primary Legislation	Local Government Act 1972 Local Government Act 1972 General Disposal Consent (England) 2003 Circular 06/03

Policy for the Disposal of Assets

Policy Statement

This policy establishes the basis upon which the Council disposes of its land and property assets. It replaces the previous policies on asset disposal held by the former five Somerset Councils.

For the purpose of this policy, a disposal of land means any freehold disposal, by sale or exchange or the grant of an option, of Council-owned land or buildings. Leasehold disposals also fall under the terms of this policy where the lease term is 50 years or more.

This policy does not cover: -

- Commercial Investment Properties
- Housing Revenue Account Assets
- Academy Conversions (leases to Academy Trusts and statutory transfers)
- Wayleaves, easements, licences and the release of covenants

Community Asset Transfers and the Council's agricultural estate fall under the terms of this policy, but will also be subject to separate supplemental policies.

Regulation of Disposal Transactions

All land and property transactions undertaken by the Council must be conducted in compliance with relevant legislation, which includes but is not limited to.

- **Section 123 of the Local Government Act 1972**, which allows the Council to dispose of land, and requires that the best consideration that can reasonably be obtained from this must be achieved.
- **Local Government Act 1972 General Disposal Consent (England) 2003 Circular 06/03**, which allows the Council to dispose of land and property at an undervalue where doing so helps to secure economic, social, or environmental wellbeing of its area, provided that the undervalue does not exceed £2m (above that figure the consent of the Secretary of State must be obtained).
- **Section 77 of the School Standards and Framework Act 1998 and Schedule 1 of the Academies Act 2010** govern the disposal of current and former school land and playing fields.

Asset Management Strategy and Plan

Somerset Council's Asset Management Strategy and Plan was developed as part of the Local Government Reorganisation programme in Somerset. This was led by senior officers from the property departments in all five former Somerset Councils who developed the strategy in conjunction with Lead Members from the Somerset Council Executive.

The strategy and plan were approved by the Council on the 22nd of February 2023. The document sets out the Council's strategic objectives for property asset management, the approach the Council will take to managing its property assets, and a series of high-level commitments to guide property asset management decisions and policy making.

The implementation of the Asset Management Strategy will be driven and overseen by the Asset Management Group (AMG). The AMG will comprise of senior officers, including representatives of the finance and property asset management functions and representation from Executive Lead Members, 3 of which have standing invites to attend, other Executive Members invited as required according to their portfolios.

The strategy has six objectives, which will guide policy making and decisions on how the Council's property and land portfolio will be used. These objectives will shape the core principles of the Asset Management Group.

1. The Council's estate is financially sustainable, efficient, and effective
2. Assets that are fit for purpose, safe & compliant
3. Assets that address the Climate Emergency
4. The Council's estate is used meet housing and care needs, with an emphasis on social housing
5. The Council's estate supports prosperity and economic growth
6. Address the growing challenges in the Council's school buildings estate

The strategic property aim is to ensure land and building assets are efficiently managed, maintained, redeveloped, acquired, and disposed of in a consistent, strategic manner that supports corporate objectives and service delivery.

Reasons for the Council to hold property

Delivery of public services and the ownership of property assets are intrinsically linked: the Council holds land and property assets for a number of reasons: -

- a) For direct service delivery (such as schools, leisure centres and household waste recycling centres).
- b) To support service delivery (for example administrative offices and highway depots).
- c) To support the Council's wider policy objectives. The council holds a varied portfolio of assets for this purpose; some examples include assets made available for social or sporting purposes, sites held for environmental or ecological purposes and assets retained for a range of strategic reasons such as a potential to contribute to future regeneration schemes, workspaces for local employment provision or other potential strategic purposes e.g., future school sites. In addition, many assets provide ancillary revenue income which in turn helps to support the Council in delivering important services to its residents.

Key Principles for Property Disposals

The Council undertakes land and property disposals in line with several key principles, namely:

- It does not hold surplus property for which there is no current or 'likely potential' projected future need. Such properties should be disposed to generate capital receipts, to support other policy priorities (for example, the provision of housing) and to reduce liabilities and risks.
- Land and property is usually disposed of on the open market unless there are exceptional reasons not to do so. These reasons may include the existence of a special purchaser such as a neighbour or current tenant or a strategic partnership opportunity.

Land and property is disposed for the best consideration that can be reasonably obtained, unless disposing of the property at an undervalue helps to secure economic, social, or environmental well-being. Meeting the duty to achieve best consideration is usually demonstrated through competitive bidding arising from exposure to the market, and sale or letting agents will normally be appointed for this purpose. Best consideration may also be demonstrated through the valuation of an asset by professional valuers if the property is not sold on the open market.

Disposals are also conducted in compliance with the Somerset Council Constitution, Financial Regulations, and Scheme of Delegation.

Surplus Property

There are many reasons why land and property may be considered surplus, such as through regular asset review, through changing service needs or changes in lease arrangements leading to vacant buildings. Consideration of an asset as surplus may also be triggered by an approach from a third party which may stimulate a review.

When a property is identified as potentially suitable for disposal, the Strategic Asset Management department undertakes consultation with appropriate internal services to evaluate whether there is a current or projected future need for the property. The Assets of Community Value register is also checked, as there are restrictions added to

the disposal in those cases, as detailed in the Assets of Community Value Regulations (2012).

If no internal need is identified, the property will be listed for discussion at Asset Management Group which will consider:

- Whether the property should be declared surplus to the Council's use
- If the property is considered surplus, the AMG will consider an appropriate approach and options for disposal and set objectives for officers to implement.

Following consideration by the AMG, Local Members will be notified of the proposed disposal and strategy/objectives, on a confidential basis, and will be invited to feed back any concerns.

The professional Strategic Asset Management team will progress the disposal, in consultation with relevant officers and members, through the most appropriate means.

The appropriate approach and objectives for the disposal of a particular asset, including in particular any requirements for public engagement or consultation, will be determined by Asset Management Group on a case-by-case basis. The disposal of assets can take many months (even years) and if there is a change in circumstances or requirements and it is judged that the disposal of the property is no longer appropriate, Asset Management Group will discuss issues arising and the property may be returned to operational use.

Where, in the opinion of the Strategic Asset Management department (endorsed by the Asset Management Group), land has the potential for redevelopment which may enhance its disposal value, an appropriate planning consent or pre-application advice may be sought before disposal. Prior to any application being submitted, input may be sought from Strategic Asset Management's planning experts, from external advisors, or from the Council's planning functions.

Disposal Terms and Conditions

The terms of any asset disposal will be negotiated on a case-by-case basis. The presumption is that the terms will be fundamentally commercial in nature with the aim

of maximising the financial return to the Council: either directly via capital receipt, through rental income or through a reduction in financial liabilities. Restrictive covenants, uplifts, and clawback clauses will be applied as appropriate to any sales, with the exact form of these agreements to be decided on a case-by-case basis. Terms for the disposal of assets falling within the scope of this policy will always be determined and agreed by officers within the Strategic Asset Management function.

Member engagement

The Lead Member for Economic Development, Planning and Assets will be kept apprised of progress on the disposals programme by way of regular briefings.

Local Members will be advised of land and properties in their division that have been declared surplus following the relevant meeting of Asset Management Group.

If the capital receipt of a disposal is anticipated to be over £500,000, a Key Decision will be added to the Forward Plan and the decision report will be published on the Somerset Council website. Members representing the division in which the asset is situated will be consulted.

Valuations

The Council has a duty to dispose of land and property for best consideration. In most cases, this is demonstrated through exposure to the open market. In exceptional circumstances, where this is not the case, valuations are undertaken in order to show that best consideration has been obtained.

The Strategic Asset Management department has a number of officers who are registered valuers and members of the Royal Institution of Chartered Surveyors. In most cases, valuation of property will be undertaken in-house by appropriately qualified / registered professional officers. Staff who are members of the Royal Institution of Chartered Surveyors (RICS) are bound by a Code of Conduct and must adhere to professional and ethical standards.

In exceptional cases the land or property asset may be valued by an external valuer to provide additional reassurance where an asset is specialist or has a range of alternative values, or where an appropriate in-house resource is not available.

Minor disposals of small parcels of land, such as to the adjacent neighbour, will not generally require a formal valuation but will always be subject to the judgement of professionally qualified member of staff.

If the proposed disposal of an asset is at an undervalue (i.e. less than 'best consideration'), then the social, economic, environmental or other applicable benefits will be clearly set out in the relevant decision report, with reference to the Council Plan or the Asset Management Strategy.

Openness and Transparency

The Local Authority publishes information on land and building assets in accordance with the mandatory requirements of the Local Government Transparency Code 2015.

Discussions will be held with Somerset Council colleagues and strategic partners (including where appropriate the Council's One Public Estate partners, and / or City, Town and Parish Councils) before an asset is declared surplus by the Asset Management Group. Any decision to dispose of an asset will be made strategically and collaboratively and where there are no suitable or identified future uses.

If the value of the asset is anticipated to be over £500,000, the proposed disposal will be published on the Council's Forward Plan. The Chair of the Corporate and Resources Scrutiny Committee will be informed of all such decisions, and may consider whether a proposed disposal should be discussed at a Scrutiny Committee. Disposals of sites with a value between £50,000 and £500,000 will be subject to a Non-Key Decision; as noted above Local Members, the opposition spokesperson and the Chair of the Corporate and Resources Scrutiny Committee will be informed where appropriate.

As noted above, local members will be informed of the intended disposal approach when an asset is declared surplus by the Asset Management Group, and also as part of the decision-making process. Local Members are bound by their Code of Conduct,

which obliges them to keep commercially sensitive or personal information confidential, however Local Members may request that the intended disposal approach is discussed with the local City, Town or Parish Council. Where appropriate, the local City, Town or Parish Council will be informed of the proposed disposal and may request a discussion with officers.

~~If applicable/appropriate, City, Town or Parish Councils will be notified.~~

In order to protect the commercial interests of the Council and any other parties in disposal transactions, financial and commercial details of potential and in-progress transactions may remain confidential until it is judged that the release of details would not be detrimental to the current and future interests of the involved parties.

Small Sites

Land and building assets of low significance or value (under £50,000) that are deemed to be surplus will generally be disposed under officer delegation. The following issues will be considered by officers in all such disposals:

- Potential ransom value
- Strategic value
- Local sensitivity
- Community impact/ potential community value

Small sites that are considered to be surplus will all be listed for consideration at the bi-monthly Asset Management Group meetings (by exception, small site disposals may be circulated for AMG Members for review between meetings). Subject to AMG review, small sites with an anticipated value of under £50,000 will be disposed under officer delegation; unless where Asset Management Group considers that Local Member consultation, or discussion with City, Town or Parish Councils is appropriate, this will be undertaken by the relevant officer.

Asset Devolution

The ~~Council's Asset Devolution~~ Framework for Service and Asset Devolution will be aligned with this Disposals Policy and asset disposals under any devolution programme will need to adhere to these overarching policies and procedures. The

Framework will enable City, Town and Parish Councils to express an interest in the transfer / devolution of Assets, within the principles set out in this Asset Disposal Policy.

Background document

Asset Management Strategy and Plan

<https://www.somerset.gov.uk/finance-performance-and-legal/land-and-property/>

Appendices

Appendix A: Disposal of Assets Process Map

Appendix B: Disposal of Small Sites Process Map

Responsible	Service Director Strategic Asset Management
Accountable	Lead Member for Economic Development, Planning and Assets
Consulted	Asset Management Group (28 th July 2023) Leader of the Council and Lead Member for Governance & Communications Deputy Leader of the Council and Lead Member for Resources and Performance Lead Member for Economic Development, Planning and Assets Asset Management Group (22 nd September 2023)
Informed	Scrutiny Committee - Corporate and Resources (7 th September 2023)

Version History

Revision Date	Author	Version	Description of Revision
13/04/2023	Strategic Asset Management	1	Draft version
28/07/2023	Strategic Asset Management	2	Asset Management Group

14/08/2023	Strategic Asset Management	3	Post Informal Exec
15/09/2023	Strategic Asset Management	4	Post Scrutiny
22/09/2023	Strategic Asset Management	5	Asset Management Group
06/09/2023	Strategic Asset Management	6	Pre - Executive
07/11/2023	Strategic Asset Management	7	Pre - Executive

Document Notification

Approval	Name	Date

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