



**Somerset
Council**

Draft

**Assets Disposals
Policy**

Organisation	Somerset Council
Title	Assets Disposals Policy
Author	Oliver Woodhams, 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 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 and any disposal by the granting of a lease or assigning a lease.

This policy does not cover: -

- Commercial Investment Properties
- Housing Revenue Account Assets
- Academy Conversions (leases to Academy Trusts and statutory transfers)

Community Asset Transfers and the Council's agricultural estate fall under the terms of new disposal 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

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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.

Somerset Council - Asset Management Strategy and Plan

The 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 Full 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.

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

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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 holding property

Delivery of public services and the ownership of property assets are intrinsically linked:

The reasons for the Council holding property are: -

- a) For the purpose of direct service delivery (such as education, 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. This part of the portfolio is varied and 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 purposes e.g., school sites. In addition, the portfolio provides some 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 demonstrated through competitive bidding arising from exposure to the market, and sale or letting agents will normally be appointed for this purpose, or measured by valuations by professional valuers if the property is not so marketed.

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. 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 this case 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 and Local Member soundings taken to identify any local issues. If appropriate, the asset will be declared surplus to requirement. Consideration of an asset as surplus may also be triggered by an approach from a third party which may stimulate a review.

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

This is largely on a case-by-case basis. If there is a change in circumstances or requirements in the future and it is judged that the disposal of the property is no longer justified, Asset Management Group will discuss this and the property returned to operational use where appropriate.

Where, in the opinion of the Strategic Asset Management department, 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 professionals, or from the Council's planning team.

Disposal Terms and Conditions

The terms of any 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.

Member engagement

The Lead Member for Economic Development, Planning & 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 £500k, 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.

If the capital receipt of a disposal is anticipated to be less than £500k, the governance is by way of a Non Key Decision paper and the decision can be made by Officers, in accordance with the Local Authority Scheme of Delegation. This is subject to appropriate engagement with relevant Local and Lead Members. This includes any disposals taken to auction where the reserve price has been set to be less than £500k.

Wayleaves and Leases

The Council regularly receives requests for wayleaves to enable the placing of pipes and cables across Council-owned land, as well as for other reasons. Due to the frequency of these requests and the small value and effect of these agreements, officers do not normally consult members on their undertaking. If it is judged that there are elements of the agreement that require member engagement, this is undertaken. For similar reasons, less significant leases and lease renewals are also undertaken without general member engagement, although the Lead Member for Economic Development, Planning & Assets may be kept apprised of these transactions, where appropriate.

Minor leases and wayleaves may be treated as business as usual under delegated authority and are not covered under this policy.

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 team of registered valuers who are members of the Royal Institution of Chartered Surveyors. In most cases, valuation of property will be undertaken in-house by this team. 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 in house resource is unavailable.

Minor disposals of small parcels of land, such as to the adjacent neighbour, may be exempt from this policy. However they will have previously been listed as “surplus” to ascertain if any issues may arise.

If the proposed disposal of an asset is at an undervalue, then the social, economic, environmental or other applicable benefits will be clearly set out in the 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) 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.

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If the value of the asset is over £500k, the proposed disposal will be published on the Council Forward Plan. The Corporate & Resources Scrutiny Committee has the power to 'call in' decisions and review a decision and recommend that the council reconsiders it. Disposals of sites with a value between £50k and £499k will be subject to a Non Key Decision and the Local Members will be consulted and the opposition spokesperson and Chair of the Scrutiny Committee – Corporate and Resources will be informed where appropriate.

Local members will be informed and engaged with in relation to the intended disposal approach at an appropriate point in the process and consulted as part of the decision-making process. Local Members are bound by their Code of Conduct and to keep commercial sensitive information confidential.

If applicable/appropriate, there will be consultation with the Town or Parish Councils.

In order to protect the 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

If there are any small sites, deemed to be surplus the following will be considered.

- Potential ransom value
- Strategic value
- Political sensitivity
- Community impact/value

Small sites that are considered to be surplus will all be listed for consideration at the bi-monthly AMG meetings. Very small disposals e.g., small strips sold to neighbours may be circulated for AMG Members for review between meetings. Subject to AMG review, small sites under £50k will be disposed under Officer delegation, unless Lead Member, AMG or Local Member consultation is considered appropriate in light of any of the four considerations above.

Officers will consider what the decision means to the community and the impact / value it has on them.

Asset Devolution Framework

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The Asset Devolution Framework will be aligned with this Disposals Policy and asset disposals under any devolution programme will need to take these overarching policies and procedures into consideration.

Background document

Asset Management Strategy and Plan

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

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
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

Document Notification

Approval	Name	Date

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