

ASSET DISPOSAL, ACQUISITION, RETENTION STRATEGY

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HALTON BOROUGH COUNCIL

ASSET DISPOSAL, ACQUISITION, RETENTION STRATEGY 2019/20

1.0 Introduction and Purpose

1.1 The purpose of this paper is to set out the methodology and approach that Halton Borough Council will use to produce its asset disposal and acquisition plan.

1.2 The paper should be read in conjunction with the Council's Asset Management Plan (AMP). The AMP summarises how the Council manages its land and property assets and sets out the Council's strategy to ensure that these assets can make the maximum possible contribution to achieving the aims and objectives of the organisation.

2.0 Definitions

2.1 AMWG – refers to the Council's Asset Management Working Group

2.2 Definition of disposal -The transfer of a freehold or a leasehold interest to a third party including public sector partners, surrender of a lease or assignment of a lease to a third party for the payment of a premium or a reverse premium. A disposal may include the grant of an option to lease or purchase the freehold; lease disposals may also arise where no premium is involved.

2.3 Best Value or best consideration under Local Government Act s 123 refers to the established commercial value of the land to the authority as if the Council being in the same position as trustees. Consideration may cover the overall package of both the price payable and other elements such as easements, right to repurchase and need not accept the highest if it is more risky or less satisfactory in some other way.

2.4 Definition of an acquisition – acquisition of land or property by way of lease, licence or freehold interests for the purposes of supporting the Council's aims and objectives and includes the sharing of space in assets in the control of public sector partners.

2.5 Definition of Surplus Property

A property asset could be regarded as being surplus if it meets one or more of the following criteria:

- It makes no contribution to delivery of the Council's services, or Council Plan objectives, either directly or indirectly, nor generates income and has no potential for future service delivery, community or regeneration purposes.
- An alternative site has been identified which would achieve a more cost effective delivery of service and the existing site has no potential for future alternative service delivery or regeneration purposes.
- Its disposal is important for the delivery of the objectives outlined in the Council Plan.
- Better public value can be obtained by transfer of an asset to another public or community body e.g. another body is able access grant funding, community asset transfers and compliance with provisions under the Localism Act 2011,

3.0 Vision and Outcome

3.1 Ultimately, the Council seeks to ensure that its asset base provides for modern, high quality facilities that are fit for purpose and located where they are most accessible to our internal and external customers. Therefore, how the Council regulates the disposal and retention of its assets, as well as the acquisition of assets is an important part of this wider AMP.

4.0 Methodology and Approach

4.1 The Council has established criteria which take into account the following circumstances:

- a) Whether to dispose of an asset;
- b) Whether to retain an asset;
- c) Whether to acquire an asset.

The reasons why the Council would wish to choose one of the above options are as follows:

- The asset has a positive impact on the delivery of corporate objectives, for example for employment, housing, social care and education uses, sharing of space with public sector partners
- The asset will generate income for the Council, or alternatively;
- the disposal of an asset will lead to a reduction in running costs
- not met the criteria in 2.4 to be regarded as surplus

4.2 Methodology

The Council's Asset Management team will lead on the overall disposal programme and nominated teams will be responsible for delivering part of the programme, for example the Key Impact area teams for the Mersey Gateway handback land and Runcorn Vision.

A virtual disposal group comprising internal officers from planning, highways, legal, finance and regeneration will form a core group to recommend the category to place an asset either as a potential disposal or to be retained and then prioritise for action by the Asset Management Team. Political input will be needed to pick up local sensitivities from consultation with the Portfolio Holder and the Ward Councillors.

A site report with a recommendation will be prepared for each asset recording the assumptions for whether as potentially surplus or to be retained, priority for case handling with a high level management plan to be presented to the Asset Management

Working Group (AMWG) in (Appendix A). The site report will be retained on the Council's terrier database.

The criteria will be applied to categorise the asset as either the potential for disposal or to be retained based on point 2.4, 4.1 and this section and then assign a priority each asset to feed into the Asset Management work programme.

In order to prioritise the caseload for the Asset Management Team the following aspects will be considered,

- consideration of nature of issues and how long/work required to be resolve
- the timescales for the capital or regeneration project where it forms part
- estimated capital receipt compared to staff resources to bring to market
- clawback impacting on the capital receipt
- outcome of the DALP anticipated 2020
- risk to the Council if sites are retained including management plan
- staff resources available

Value is released from sites if there is demand from a purchaser, planning consent for the use and no legal title issues .Consideration has been given to the suggested timing of disposal to focus resources on those areas where the Council will obtain a more significant return on its asset, to either generate a capital receipt or reduce the Council liabilities for sites.

This has an impact on the Council's response to low value enquiries, for example, enquiries for the acquisition of garden land where the receipt is low but the purchaser expectations will be high for the purchase. Unless there are strategic reasons to dispose of smaller plots these cases would be given less priority within the Asset Management team work programme

4.3 The options available for disposal are:

- i) Freehold disposal - The sale of the property with or without future Covenants to restrict or protect future use.
- ii) Permanent grant of rights over land
- iii) Leasehold disposal – Leasehold interest can be agreed for any time period. A leasehold interest of 7 or more years has to be registered as an interest in land with the Land Registry. All leasehold disposals will be agreed outside the Landlord and Tenant Act 1954 to exclude business protection, unless the property is categorised as an investment property where terms will be agreed based on advice from an Independent Valuer to seek best consideration for the lease.
- iv) Non-permanent grant of rights over land – i.e. access licence, way leave etc.
- v) Short tenancy – tenancy for a term of less than 7 years or the assignment of a term which at the date of the assignment has not more than 7 years to run. All short tenancy disposals will be agreed outside the Landlord and Tenant Act 1954 to exclude business protection.

4.4 Steps in the process to consider an asset for disposal or retention

- Asset Management team notified of an asset to review, investigates background details of the property, produces a site report
- Asset Manager circulates the details of the asset to the Virtual Disposal Group for comment, observation
- Recommendation made by the project group – is it surplus; option for disposal; priority and recorded on the site report
- Asset Manager seeks political input from the Portfolio Holder and Ward Councillors to include in the report to AMWG
- Asset Manager reports the recommendations to the AMWG including future management plan or marketing strategy eg use of joint venture arrangements, agents
- The Asset Management Working Group will advise on the approach and recommendation for the assets presented, for seeking Executive Board approval and a steer on assets disposed of at less than best value, and how to obtain further political input
- Passed to Asset Manager to progress the case, include in the work programme , seek approval from the Executive Board
- Asset Manager acts on the approval of the Executive Board, reports on progress/actions to AMWG and quarterly report to Portfolio Holder

4.5 Member Consultation

Input from the Portfolio Holder and Ward Councillors will be requested when the Virtual Disposal Group are considering the sites. The site report prepared by the Asset Manager for the AMWG will include the comments and observations received from the Portfolio Holder and Ward Councillors. The AMWG will factor in the comments and observations to inform the Executive Board report.

5.0 Draft disposal programme 2019

Given the financial pressures facing the Council, the primary focus in 2019/20 will be/has been to develop an asset disposal plan for the sites identified as potentially surplus and the Runcorn and Mersey Gateway regeneration schemes

The Council's asset management team has undertaken a review of the previous asset disposal plan to identify what assets remain, consider the assets that were placed 'on

hold' with a view to bringing together a disposal programme over the next 3 to 5 years. Additional sites over time will be identified these will follow the same process.

The assets have been categorised as potentially surplus with a priority attached for the work programme and listed in Appendix D and to be retained in Appendix E

Sites have been split by financial year to form the work programme focussing on assets based on the criteria in section 2.4 and 4.0

The sites held for the Runcorn and Mersey gateway regeneration schemes have been included in the potentially surplus sites. The strategy for the development of the Mersey Gateway handback land is being led by the designated regeneration project officer for the respective Mersey Gateway Regeneration Plan Plus Key Impact Areas.

The remainder of the potential surplus assets identified as potentially surplus are predominantly infill plots in secondary locations and unlikely to yield high returns.

6.0 Income producing assets

The income producing assets comprising the commercial, investment portfolio and off street parking cost centres generating income have been reviewed and split into retain or potential disposal. The potential for disposal in terms of timing and financial return will be depend on the lease arrangements for the asset eg when tenant vacates.

An investment appraisal exercise has been undertaken by external consultants on the income producing properties in Runcorn. The results of this appraisal has been fed into consideration whether to retain the asset. The model can be applied to the remainder of the income producing assets when reviewed

Asset Manager to work with Finance colleagues to assess the impact of reduction in rental income and consider opportunities for replacement income producing assets

7.0. Retaining an Asset

Similar principles and criteria apply in respect of the strategic decisions the Council will make in respect of retaining an asset.

One additional aspect that will require further consideration is whether any significant savings would be generated from the disposal of certain assets. In these instances, the costs of continuing to operate from a building may be less than the 'mothballing' of an asset without the prospect of a future disposal. Equally, there may be a negative impact on the immediate area, and therefore, other factors rather than purely financial will be taken into account.

A management plan will be reported for the asset which could include maintenance regime, security provisions or the prospects of finding a tenant.

8. 0 Open Space

The Council has over 950 hectares of publicly accessible open space. This space includes public parks, cemeteries, local nature reserves, riverside promenades, linear routeways, woodland, lawned areas and roadside verges. Within the Council's land management systems these areas are designated as 'Managed Green Space' (MGS). They are actively managed by the Council and have schedules of work allocated to them.

Whilst the Council recognises the importance of public open space it will consider disposal of all or part of a specific plot – particularly where it could improve the management of other open spaces benefiting the wider public, reduce an unacceptable and significant impact on a neighbouring property resulting from misuse of open space and/or clears up anomalies of past land sales, acquisitions, transfers.

The Council must comply with its legal requirement to advertise proposed sales of public open space and consider objections prior to deciding to dispose of the site. The costs will be borne by the prospective purchaser.

The following will be considered-

- Criteria in 2.4 and 4.2
- Will the sale result in the wholesale loss of, or detract from the visual quality/amenity of the surrounding area.
- a disposal could be seen as preferable where a sale of the open space and re provision elsewhere will significantly benefit the wider community
- Level of staff resources within the disposal work programme

If disposals are approved covenants will be applied to retain the open nature of landscaped areas and/or to require the provision of certain standards of new boundary fencing, walling or delineation.

9.0 Acquiring an Asset

The Council's revenue funding has been reduced over a number of years. However, on a positive note, there has been a growth in the level of business rates that have been generated.

The Council has a prudent and relatively risk averse approach to financial management. However, the shortfalls in revenue funding is leading the Council to consider more commercially minded, innovative and potentially higher risk opportunities going forward.

The Council has over the years been reasonably innovative and invested in a variety of schemes within the Borough, but usually as either a “lender of last resort” or as the only way to ensure a scheme gets off the ground.

In the past the returns on such investments have sometimes been fairly limited, apart from generation of additional business rates. There are examples of successful investments, but the scope to do more “within” the Borough appears limited.

The Council is currently seeking to work with external advisors to determine the most appropriate assets to acquire. Discussions are also ongoing with the Combined Authority in respect of funding for the acquisition of land assets in the borough.

Unless there are exceptional circumstances, the Council will only acquire land or property for the purposes set out in section 4.1.

A property requirement may be identified through a business planning process, regeneration project or asset management review.

Once a requirement has been identified, a strategic outline business case for the acquisition must be prepared by the Project Sponsor. This will set out the rationale, background, policy context and strategic for the requirement. The strategic case should clearly state the objectives that are to be delivered and identify SMART outcomes. The level of detail required will be reflected by the value and or complexity of the potential acquisition.

The report will be presented to the AMWG by the project sponsor.

Where projects are supported, the Property Services Manager, Asset Manager and Regeneration Manger in association with key services will carry out a search to establish whether suitable land or property is available to fulfil the requirements of the Council.

This includes utilisation of existing assets and opportunities with potential Partner organisations. Where a number of potentially suitable properties exist in the market place, comparisons will be made to establish which is the most suitable for the Council’s needs.

When a suitable property has been identified, a financial appraisal will be carried out by the Project Sponsor with input from Finance to establish the financial/budgetary implications of acquiring the property. The financial appraisal will take into account the following matters:

- The capital cost of acquisition and relevant expenditure
- The opportunity cost of acquisition
- Any revenue, or potential revenue, generated from the property, both short and long term
- Availability of external funding sources

The Council has powers to acquire empty residential properties and bring to market. A separate policy for these circumstances is being prepared and forms part of the overall Asset Management Plan.

10.0 Governance and Reporting Arrangements

10.1 Delegated powers and decision making process

The Council's Constitution sets out the appropriate delegations. The process to dispose of properties once confirmed as surplus, is the responsibility of the Operational Director EEP, in consultation with the Portfolio Holder for Resources. This includes the method of sale, reporting procedure for approvals, updating the P2 terrier database and Asset Register.

The progress of the programme is monitored through the AMWG and reported to the Portfolio Holder on a quarterly basis

10.1 The Council's Asset Management Plan sets out the Governance and Reporting arrangements associated with the production of an asset disposal plan, and also other matters pertaining to land and property transactions, arrangements associated with the production of an asset disposal plan, and also other matters pertaining to land and property transactions.

However, this paper makes specific reference to the arrangements for engaging with and consulting with the Portfolio Holder and Ward Councillors on the disposal of assets as follows:.

10.2 A standard sheet of basic information and a site plan is sent to the Portfolio Holder and Ward Councillors to seek their comments on local issues affecting the site and or on a specific proposal if known when the Virtual Disposal Group is considering the assets under review.

10.3 Statutory Powers for Disposal

Under the Local Government Act 1972 local authorities have powers to dispose of property in any manner they wish, subject to certain constraints.

The Council in both acquisitions and disposals must comply with the section 123 Local Government Act 1972 to obtain best consideration and General Consent Order for disposal at less than best consideration.

This section provides that Local Authorities are not permitted to dispose of land or grant leases in excess of 7 years for a consideration which is less than the best which is reasonably obtainable, unless they obtain consent from the Secretary of State.

The main provision of the consent is that there is a general consent for Local Authorities to dispose of land or grant a lease in excess of 7 years for less than the best consideration reasonably obtainable, where:-

- The Authority considers that the purpose for which the land and property is to be disposed is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of the whole or any part of its area or any persons resident or present in its area; and

The difference between the full market value and the actual consideration payable does not exceed £2m

To demonstrate compliance disposals of sites whether of the freehold or leasehold interests will be brought to market by the Asset Management Team. Depending on the nature of the asset by way of auction or through agents by private treaty.

Where it can be demonstrated that there is only one purchaser the sale price or rent will reflect the market value supported by a valuation report obtained by external consultants to support the sale price or rent.

Where there is a special-interest purchaser likely prepared to pay above the market price. Both the market value and the value advantage to the proposed purchaser will be established.

Where sales of freehold interest or by way of lease are at less than market value are in effect a subsidy to a particular group and the Council should demonstrate compliance with the General Consent Order 2003 in those circumstances.

Compliance with The Local Government Act 1972 and the General Disposal Consent 2003 will be supported by a valuation report to document the circumstances in line with the provisions of the General Disposal Consent 2003.

10.4 State Aid

Using taxpayer-funded resources to provide assistance to one or more organisations in a way that gives an advantage over others may be state aid and in principle, state aid is not allowed.

There are exceptions but the Council is responsible for ensuring the policy measures and projects comply with the rules.

11.0 Resources

11. 1 There are cost implications required to develop an asset disposal plan. Most work will be undertaken by the Asset management Team but staff resources from other departments will be required. An allocation of funds has been set aside to take into account, site preparation costs, agents' fees and property consultancy and advice

The Asset management team comprises an Asset Management Technician, two Principal Valuers and the Valuation and Asset Manager relying on the support from officers in the Legal, Planning, Highways and Regeneration.

The delivery of the programme and disposal of sites is dependent on the staff resources available and cooperation of third parties to transactions.

11.2 Professional Fees

The Council will seek to recover the professional fees associated with property transactions for work undertaken by internal officer and where external consultants have been commissioned. Fees for Asset Management team and Legal Services are based on cost recovery in line with the provisions Section 93 Local Government Act 2002.

Where cases are handled by external consultants the Council will seek to recover the fee incurred.

The level of fee may result in a reduction in the bid from the purchaser or deter some from bidding but any charges should be made clear during the marketing stage and set at a reasonable rate.

A waiver of the fees should be approved by the Operational Director Economy Enterprise and Property.