

**Executive Board  
21 September 2021**

<b>Subject:</b>	Asset Disposals Policy
<b>Corporate Director(s)/Director(s):</b>	Sajeeda Rose, Corporate Director for Growth and City Development  Nicki Jenkins, Director of Economic Development and Property
<b>Portfolio Holder(s):</b>	Councillor David Mellen, Portfolio Holder for Strategic Regeneration and Communications
<b>Report author and contact details:</b>	Steve Sprason, Interim Head of Property <a href="mailto:steve.sprason@nottinghamcity.gov.uk">steve.sprason@nottinghamcity.gov.uk</a>
<b>Other colleagues who have provided input:</b>	
<b>Subject to call-in:</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Key Decision:</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Criteria for Key Decision:</b>	
<b>(a)</b>	<input type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision
<b>and/or</b>	
<b>(b)</b>	Significant impact on communities living or working in two or more wards in the City <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Type of expenditure:</b>	<input type="checkbox"/> Revenue <input type="checkbox"/> Capital
<b>Total value of the decision:</b>	Nil
<b>Wards affected:</b>	All wards
<b>Date of consultation with Portfolio Holder(s):</b>	
<b>Relevant Council Plan Key Theme:</b>	
Nottingham People	<input type="checkbox"/>
Living in Nottingham	<input type="checkbox"/>
Growing Nottingham	<input checked="" type="checkbox"/>
Respect for Nottingham	<input type="checkbox"/>
Serving Nottingham Better	<input type="checkbox"/>
<b>Summary of issues (including benefits to citizens/service users):</b>	
<p>The Asset Disposals Policy sets out how the Council will meet its statutory responsibility in relation to the disposal of land and property assets in a clear, transparent and public fashion. It also sets out:</p> <ul style="list-style-type: none"> <li>• the process and principles for considering and deciding on how assets will be declared surplus to the requirements of the Council;</li> <li>• the circumstances under which associated valuations and/or independent valuations will be obtained;</li> <li>• the various methodologies that can be employed for disposing of assets; and</li> <li>• confirms that the Council’s default position on disposals will be to obtain ‘best consideration’.</li> </ul> <p>The Policy primarily deals with the disposal of General Fund assets under section 123 of the Local Government Act 1972 and notes that there are different arrangements for the sale of Housing Revenue Account (HRA) assets (where the</p>	

requirement is to obtain market value) and for assets held under Planning powers (where the requirement is to obtain best consideration) under the provisions of section 32 of the Housing Act 1985 and section 233 of the Town and Country Planning Act 1990, respectively. Ministerial 'General Consents' have been issued in relation to both section 123 and section 32 disposals, which offer some discretion from meeting the headline statutory requirements under certain circumstances. No General Consent exists for Planning disposals.

The Council has an urgent requirement to improve its capital finance position, through the realisation of capital receipts by asset rationalisation. It is therefore important that processes are streamlined to give the certainty and confidence that those requirements can be met.

**Exempt information:** None.

**Recommendation(s):**

1) To approve the Asset Disposals Policy, attached as Appendix A to this report.

## **1 Reasons for recommendations**

- 1.1 There is a need to make clear and public the Council's approach to the disposal of land and property assets, and how it will meet its related statutory requirements. This gives confidence that the processes are robust.
- 1.2 Adoption of the Policy supports the Asset Management requirements of the Recovery and Improvement Plan.

## **2 Background (including outcomes of consultation)**

- 2.1 Local Authorities have a statutory obligation to achieve best consideration or market value in the disposal of land and property assets, as detailed above. The main thrust of this report and Policy is in relation to the disposal of General Fund assets where there is an obligation, subject to certain qualifications, to achieve 'best consideration'. Best consideration is not just about the cash price or indeed necessarily the highest offer received. Regard can also be had to the receipt of non-financial benefits where those can be quantified in cash terms. Indeed, this can also extend to the benefits that will accrue to the Council in terms of the provision, for example, of loan funding, income derived through development delivery via a company vehicle within which it has an interest, and the like. In essence, it is the totality of the arrangement that can be taken into consideration.
- 2.2 Accompanying this requirement, the General Disposals Consent (England) 2003 was published, which gives discretion to Local Authorities to dispose at an 'under value' of no more than £2 million, subject to certain qualifying criteria. This delegation to the Local Authority is designed for administrative ease only; the Authority should always go through the same rigor in determining whether or not to sell at an under value as if it was needing to apply to the Secretary of State (which is the route for intended under value sales of over £2 million). Circular 06/03: 'Local Government Act 1972 General Disposal Consent (England) 2003 disposal of land for less than the best consideration that can reasonably be obtained' gives guidance on interpretation and in its technical appendix sets the requirements of the associated valuation report. In all instances of considering whether or not to sell at an under value, the Authority should obtain a valuation in line with the requirements of the technical appendix. Although obtaining a valuation is not a legal

requirement (achieving best consideration is an outcome to be achieved and not a particular process that needs to be followed), the Circular does recommend that “local authorities are strongly advised in all cases to ensure that they obtain a realistic valuation of that interest following the advice in the technical appendix”. This is an entirely prudent approach that ensures that disposal decisions are made from a fully informed position and effectively demonstrates how the Council is meeting its statutory obligations.

2.3 The principal aspects of the Asset Disposal Policy now submitted for consideration covers the following:

- **Purpose** – briefly rehearses the above reasons for the need of a Policy. Confirms the policy relates to all General Fund disposals.
- **Identification and declaring assets surplus** – describes the process for the consideration of assets potentially being declared surplus to the Council’s requirements. The Asset Rationalisation Board acts in an advisory and monitoring capacity in this respect.
- **Best consideration and disposal at under value** – rehearses the above statutory framework and references that other consents for disposal may additionally be required, e.g., for school buildings and playing fields, open space disposals, etc. Confirms that the Council’s default position is to achieve best consideration when making a disposal, but that consideration will be given to disposal at under value where a transaction achieves the Council’s corporate strategic objectives and demonstrates economic, social or community value.
- **Valuation of land and buildings for disposal** – confirms that valuations will always be obtained to support disposal decisions and be undertaken by an appropriately qualified and experienced valuer. Valuations will accord with the requirements of the technical appendix referred to above. Notes the circumstances of when community asset transfer will be considered.
- **Disposing of an Asset** – sets out the main routes to marketing/disposal of an asset. Open market disposal will always be the preferred route as full exposure to the market is one of the principle ways of demonstrating that best consideration is being achieved. Other routes will be used where it is considered in the best interests to do so and by exception. Sets the criteria for potential ‘special purchaser’ disposals.
- **Determining Value/Price** – confirms that exposure to the market and purchaser completion will be the preferred route. Independent valuations will be procured if an alternative route is followed. There will instances where it is appropriate for that valuation to be prepared by an internal valuer.
- **Financial criteria for disposals** – details how potential capital and revenue implications of a potential surplus declaration/disposal will be captured.
- **External consents** – confirms that in some instances additional consents to an intended disposal will be required as detailed above.
- **Governance and formal decision making process** – confirms that all disposals will follow the Council’s approved and documented formal governance arrangements and in consultation with key internal officers.
- **Governance Arrangements** – the appendix to the Asset Disposals Policy document sets out those formal governance arrangements.<sup>7</sup>

### 3 Other options considered in making recommendations

3.1 To not publish an Asset Disposals Policy: this would not be regarded as a prudent action for the reasons given above, so this option is rejected.

#### **4 Finance colleague comments (including implications and value for money/VAT)**

- 4.1 An efficient Asset Disposals Policy is essential for the Council to enable it to meet its current commitments in the Council's Voluntary Debt Reduction Policy (VDRP) and Capital Strategy.
- 4.2 The Council requires a significant level of capital receipts to be generated in the short to medium term to offset current commitments. Should capital receipts slip under the minimum required level it could mean:
- mon-contractually committed Capital Schemes are slipped to future years;
  - contractually committed schemes may require alternative funding that is compliant with both the Capital Strategy and the VDRP; or
  - repayment of debt will be slipped to future years impacting on the VDRP.
- 4.3 As set out in the Capital Strategy, the Council's policy is to not contractually commit to any scheme until the required level of capital receipts has been secured.

Advice provided by Tom Straw, Senior Accountant – Capital Programmes, on 20 August 2021.

#### **5 Legal and Procurement colleague comments (including risk management issues, and legal, Crime and Disorder Act and procurement implications)**

- 5.1 The report correctly identifies the various legislative routes that the Council can utilise for the disposal of its land and property holdings and the rationale for a public facing Asset Disposals Policy is clearly set out. The report itself raises no other legal issues and, as a consequence, the proposals are supported.

Advice provided by Malcolm R. Townroe, Director of Legal and Governance, on 24 August 2021.

#### **6 Strategic Assets & Property colleague comments (for decisions relating to all property assets and associated infrastructure)**

- 6.1 It is entirely helpful to have a published policy in relation to the disposal of land and property assets. This serves to make the Council's processes, and its approach to meeting its related statutory obligations, clear and transparent. It also serves to make clear the general approach to the achievement of best consideration/market value in transactions as appropriate. The Policy is fully supported.

Advice provided by Nicki Jenkins, Director of Economic Development and Property, on 19 August 2021.

#### **7 Social value considerations**

- 7.1 Not applicable.

#### **8 Regard to the NHS Constitution**

- 8.1 Not applicable.

## **9 Equality Impact Assessment (EIA)**

9.1 An EIA is not required because this decision does not represent a new or changing policy, service or function.

## **10 List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)**

10.1 None.

## **11 Published documents referred to in this report**

11.1 Recovery and Improvement Plan 2021-24.