

Executive Board – 18th June 2024

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| Subject: | The Disposal of Investment Property Assets from the Property Trading Account |
| Corporate Director(s)/Director(s): | Sajeeda Rose - Corporate Director for Growth & City Development |
| Executive Member(s): | Cllr Ethan Radford- Executive Member for Skills, Growth, Economic Development and Property |
| Report author and contact details: | Paul James – Disposals Surveyor- Corporate Landlord Services – Growth & City Development- Strategic Assets & Property Paul.James@nottinghamcity.gov.uk |
| Other colleagues who have provided input: | Christopher Cocks – Disposals Surveyor - christopher.cocks@nottinghamcity.gov.uk |
| Subject to call-in: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | |
| Key Decision: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | |
| Criteria for Key Decision: | |
| (a) <input type="checkbox"/> Expenditure <input checked="" type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 or more taking account of the overall impact of the decision | |
| and/or | |
| (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 | |
| Type of expenditure: <input type="checkbox"/> Revenue <input type="checkbox"/> Capital - N/A If Capital, provide the date considered by Capital Board Date: - N/A | |
| Total value of the decision: Exempt from Publication | |
| Section 151 Officer expenditure approval Has the spend been approved by the Section 151 Officer? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/a | |
| Commissioner Consideration Has this report been shared with the Commissioners' Office? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Any comments the Commissioners wish to provide are listed below. | |
| Wards affected: Castle, Dales, Hyson Green & Arboretum, Radford, and St Ann's. | |
| Date of consultation with Executive Member(s): Executive Member consultation was undertaken on the 22 nd May 2024. The recommendations contained in this report and exempt appendix were circulated and endorsed by the Corporate Director for Growth & City Development and the S151 Officer as part of the Asset Rationalisation governance procedures. | |
| Relevant Council Plan Key Outcome: | |
| Clean and Connected Communities | <input type="checkbox"/> |
| Keeping Nottingham Working | <input type="checkbox"/> |
| Carbon Neutral by 2028 | <input type="checkbox"/> |
| Safer Nottingham | <input type="checkbox"/> |
| Child-Friendly Nottingham | <input type="checkbox"/> |
| Healthy and Inclusive | <input type="checkbox"/> |
| Keeping Nottingham Moving | <input type="checkbox"/> |
| Improve the City Centre | <input type="checkbox"/> |
| Better Housing | <input type="checkbox"/> |



Summary of issues (including benefits to citizens/service users):

In response to the Council's Together for Nottingham Recovery and Improvement Plan refresh 2022, the Council commenced a review of assets within the Property Trading Account which could be considered for disposal.

The assets proposed for disposal have been reviewed in accordance with the "Asset Rationalisation Programme" and endorsed as being suitable for disposal.

The proposed disposals support the Council's Together for Nottingham Recovery and Improvement Plan refresh 2022 and would provide a capital receipt.

Does this report contain any information that is exempt from publication?

The appendix to this report is exempt from publication under paragraph 3 of Schedule 12A to the Local Government Act 1972 because it contains information relating to the strategic management of the Council's Surplus Property Assets and in particular contains commercially sensitive information relating to asset management and disposals. Having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. It is not in the public interest to disclose this information because disclosure of the information will compromise the Council's negotiation strategy in the event of a disposal, and this may adversely impact the revenue/capital the Council could receive.

Legal comments contained in the exempt appendix are exempt from publication under paragraph number 5 of Schedule 12A to the Local Government Act 1972 because it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings relating to a proposed transaction and, having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

It is not in the public interest to disclose this information because it contains confidential legal advice in respect of the proposed transaction and disclosure could prejudice the Council's position.

Recommendation(s):

1. To make the assets detailed in the exempt appendix surplus to the requirements of the Property Trading Account and available for disposal.
2. To delegate the approval of the asset management and/or method of sale to the Director of Economic Development & Property;
3. To delegate approval of the final terms of sale to the Corporate Director for Growth and City Development.
4. To appoint sales agent(s) or any other required consultant via a procurement compliant process (tender/framework/quotation) to facilitate the disposals process. Any expenditure will be subject to the Spend Control Board process.
5. To delegate the approval of any licences/agreements or required legal agreements to facilitate a sale to the Director of Economic Development & Property;

1. Reasons for recommendations

- 1.1 Disposals will generate significant capital receipts which can be used by the Council as considered appropriate. It will also mitigate potential future financial risks arising from capital and revenue expenditure required to meet the council's repairing obligations and remove resource-intensive assets from the Council's ownership, and remove any costs associated with voids/re-letting and refurbishment.
- 1.2 **Recommendation 1** - To make the assets detailed in the exempt appendix surplus to the requirements of the Property Trading Account. The Council has a requirement to repay Exceptional Financial Support in year as well as a range of other items such as the repayment of borrowing, transformation, and approved projects. The disposal of income and non-income producing assets will deliver a programme of capital receipts to repay these items.
- 1.3 **Recommendation 2** - To delegate the approval of any required asset management activity and/or method of sale to the Director of Economic Development & Property – this is required to ensure any required actions to facilitate a sale are undertaken quickly and efficiently. Such asset management actions would include rent reviews/lease renewals/assignments etc. The most appropriate method of sale will be determined depending on the asset type, value and the market at the prevailing time.
- 1.4 **Recommendation 3** - To delegate approval of the final terms of sale to the Corporate Director for Growth and City Development – this will ensure disposals can be progressed at pace without having to refer decisions back to the Executive Board.
- 1.5 **Recommendation 4** - To appoint sales agent(s) or any other required consultant via a procurement compliant process (tender/framework/quotation) to facilitate the disposals process. Any expenditure will be subject to the Spend Control Board process – this recommendation is made to ensure disposals can be progressed at pace without having to refer decision back to the Executive Board. All decisions will be in line with the Council's Spend Control Board process, and this has been endorsed by the S151 Officer.
- 1.6 **Recommendation 5** - To delegate the approval of any licences/agreements or required legal agreements to facilitate a sale to the Director of Economic Development & Property - this recommendation is made to ensure disposals can be progressed at pace without having to refer decision back to the Executive Board.
- 1.7 Property specific reasons are contained in the exempt appendices.

2. Background (including outcomes of consultation)

- 2.1 In response to the Council's Together for Nottingham Recovery and Improvement Plan 2021-2024 Refresh 2022, the Council is reviewing its property assets held within the Property Trading Account which could be considered for disposal.

- 2.2 The assets proposed for disposal have been reviewed in accordance with the, "Asset Rationalisation Programme" as being suitable for disposal. The assets have been reviewed using a decision matrix which considers key property and finance inputs relating to condition, future capital and revenue liabilities, energy performance ratings, management of the asset, performance of the asset and marketing. Financial considerations include capital/revenue and capital financing implications. Each element has been scored with the results being endorsed by Senior Officers in both Strategic Assets & Property and Finance. The results of the decision matrix are set out in the Exempt Appendix.
- 2.3 The assets identified for disposal are a mix of property types comprising industrial estates and premises, leisure and licensed leisure premises. Assets have been identified for sale based on their individual characteristics. Asset specific issues are referenced within the Exempt Appendix.
- 2.4 Local Ward Councillors will be advised of the proposal to dispose of the assets which form the subject of this report.

3. Other options considered in making recommendations

- 3.1 **Not to sell the assets** - This option has been rejected as retention of the assets could present a financial risk to the Council in terms of capital expenditure for repairs, maintenance and compliance works or due to a potential fall in revenue income. Retaining the asset would also forego potentially significant capital receipts. The option to dispose will remain under review and if market conditions or due diligence reveals that the asset should be retained, reviewed, or sold at a later date this decision will be recommended to the Corporate Director for Growth & City Development.
- 3.2 Significant Capex is required on the vast majority assets proposed for disposal, largely to ensure compliance with the Council's contractual and statutory obligations. This expenditure is necessary to preserve existing income streams and protect the value of an asset.
- 3.3 Required expenditure includes repairs to buildings for which the Council is liable, and compliance with statutory requirements, most notably works to satisfy minimum energy efficiency standards (MEES) and obtain valid Energy Performance Certification (EPC).
- 3.4 In the absence of a valid EPC certificate, the Council is prevented from letting assets which fail to meet required legislation. EPC requirements are becoming increasingly stringent, with the next major uplift in standards being implemented on 1st of April 2027.
- 3.5 Failure to expend monies will result in fines, loss of income, reputational damage and incur void costs and impairment in capital value.
- 3.6 It is also anticipated market sentiment will turn negative on non-EPC compliant assets in advance of the 1st of April 2027 deadline.
- 3.7 Currently no provision to implement EPC compliance works exists within the Capital Programme and urgent budgetary provision is required to comply with impending legal requirements. It is considered unlikely that Capex on EPC and repair works will generate increased rental income, as compliance with contractual lease obligations and legislation is expected.

4. Consideration of Risk

4.1 Failure to dispose of the assets:

This presents a potential financial risk to the Council as many of the assets will require capital investment to protect and maintain existing income and maximise future potential income.

In some cases, the assets are also vacant therefore failure to sell will result in continued void holding costs for which the Council has no budget.

Increasing EPC regulations may result in the asset being incapable of reletting without significant capital expenditure. This expenditure will not improve revenue income and no budgetary provision exists for EPC remedial works.

Risk Mitigations:

- Ensure assets approved for disposal are marketed effectively, at the earliest opportunity, to ensure sufficient exposure, generating a high level of awareness amongst potential purchasers.
- Adoption of an asset-specific marketing strategy to ensure assets are targeted at specific market segments to maximise likelihood of successful a disposal.
- Use of auction process provides increased certainty of securing a disposal within a defined timescale, and on an unconditional Basis.
- Allocate dedicated specialist resource with significant experience of commercial property disposal transactions.

4.2 Delay in disposal of the assets:

- There may be delays to the disposal of the assets caused by further due diligence work revealing issue which prevent or delay a sale.
- Lack of adequate resource to facilitate disposals at pace.
- Changes to the property market leading to a decision to delay a sale or retain the asset.
- Changes to the property market could also lead to lower or higher sales receipts. The former will need to be approved under the delegations contained in this report.

Risk Mitigations:

- Commence pre-disposal legal due diligence review at the earliest opportunity.
- Post- Legal review, prioritise assets by ease of disposal.
- Allocate dedicated specialist resource with significant experience of commercial property disposal transactions.
- Monitor commercial property market conditions / sentiment combined with awareness of wider macro-economic environment and impact of a General Election scheduled within FY 24/25.
- Respond effectively and swiftly to changing market conditions, which could materially impact any disposals. – e.g., adjust disposal programme to minimise impact of adverse sentiment.

4.3 Revenue Loss from the Property Trading Account:

The disposals set out in the exempt appendix will result in significant revenue losses.

Risk Mitigation:

- The Council has previously set aside budgetary provision for these pressures and will be using these monies to offset the impact on the revenue budget from the disposal of these properties.

5. Commissioner comments

Commissioners understand that the property has been externally appraised by Avison Young, this is a high-level market appraisal. And the city has appointed a specialist sports/leisure agent to review the asset and provide an opinion and appraisal of the proposed disposals. The final decision to sell will be made based on this report and advice. On this basis the commissioners are content.

6. Finance colleague comments (including implications and value for money/VAT)

- 6.1 The Finance team comments are contained in the exempt appendix.

Capital

Tom Straw, Senior Accountant (Capital Programmes) - 21/05/24

Revenue

Sarah Baker, Senior Commercial Business Partner (Strategic Assets and Property) - 21/05/24

7. Legal colleague comments

- 7.1 The Legal comments are contained in the exempt appendix.

Mick Suggett; Solicitor and Team Leader – Conveyancing – Date: 20th May 2024.

8. Other relevant comments

Strategic Assets and Property

- 8.1 The assets identified in the exempt appendix have been subject to the Council's Asset Rationalisation process and they have been reviewed with key officer in Strategic Assets & Property, Finance and Legal Services. Endorsement to the disposals has been provided via the Asset Rationalisation process and the Corporate Director for Growth and City Development and Section 151 Officer.
- 8.2 The individual sales will be progressed by the Disposals & Development Team in line with the adopted Disposals Policy and the team will work with Legal Services to deliver the sales at pace and to achieve best consideration.
- 8.3 Once approved, the timings of disposals will be confirmed, and sales packs will be developed, this will ensure that the assets are ready for sale at the appropriate time and via the appropriate method.
- 8.4 Progress on disposals will be reported weekly to key colleagues and any delays/withdrawals will be managed appropriately.

8. Procurement

8.1 The Procurement comments are contained in the exempt appendix.

Jonathan Whitmarsh – Corporate Procurement Officer – 21st May 2024.

9. Crime and Disorder Implications (If Applicable)

9.1 Not Applicable.

10. Social value considerations (If Applicable)

10.1 Not Applicable.

11. Regard to the NHS Constitution (If Applicable)

11.1 Not Applicable.

12. Equality Impact Assessment (EIA)

12.1 Has the equality impact of the proposals in this report been assessed?

No



An EIA is not required because the decision does not impact Council policy or procedure.

13. Data Protection Impact Assessment (DPIA)

13.1 Has the data protection impact of the proposals in this report been assessed?

No



A DPIA is not required because:

There are no issues arising from the release of information held by the Council in respect of the existing tenants as:

- a). The information is required for the purposes of entering into a contract with a prospective purchaser.
- b). The information is required for the purposes of legal proceedings- i.e. the conveyancing process.

14. Carbon Impact Assessment (CIA)

14.1 Has the carbon impact of the proposals in this report been assessed?

No



A CIA is not required because the decision will not impact on carbon production by the Council.

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

15.1 None.

16. Published documents referred to in this report

16.1 None.