

**Executive Board – 22nd October 2024**

<b>Subject:</b>	<b>The Disposal of Investment Property Assets from the Property Trading Account and Surplus Operational Assets</b>
<b>Corporate Director(s)/Director(s):</b>	Nicki Jenkins - Corporate Director for Growth & City Development
<b>Executive Member(s):</b>	Cllr Ethan Radford- Executive Member for Skills, Growth, Economic Development and Property
<b>Report author and contact details:</b>	Paul James – Disposals Surveyor- Corporate Landlord Services – Growth & City Development- Strategic Assets & Property <a href="mailto:Paul.James@nottinghamcity.gov.uk">Paul.James@nottinghamcity.gov.uk</a>
<b>Other colleagues who have provided input:</b>	Christopher Cocks – Disposals Surveyor - Corporate Landlord Services – Growth & City Development- Strategic Assets & Property <a href="mailto:christopher.cocks@nottinghamcity.gov.uk">christopher.cocks@nottinghamcity.gov.uk</a>
<b>Subject to call-in:</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Key Decision:</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Criteria for Key Decision:</b>	
(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
<b>and/or</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 <input checked="" type="checkbox"/> - N/a If Capital, provide the date considered by Capital Board Date: -N/A
<b>Total value of the decision: Contained within the exempt appendix</b>	
<b>Section 151 Officer expenditure approval</b>	
Has the spend been approved by the Section 151 Officer? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> - N/a Spend Control Board approval reference number: Section 151 Officer has endorsed the proposed disposals, and the necessary Spend Control approvals will be sought prior to committing and incurring expenditure.	
<b>Commissioner Consideration</b>	
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.	
<b>Wards affected: Citywide</b>	
<b>Date of consultation with Executive Member(s):</b>	
Portfolio Holder consultation was undertaken on the 19 <sup>th</sup> September 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.	
<b>Relevant Council Plan Key Outcome:</b>	
Clean, Green 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"/>
Living Well in Our Communities	<input type="checkbox"/>
Keeping Nottingham Moving	<input type="checkbox"/>
Improve the City Centre	<input type="checkbox"/>



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

The Council is currently facing significant budget gaps due to issues facing councils in general across the country including increased demand for children's and adults' social care, rising homelessness presentations and inflation. This has meant substantial savings need to be made between 2024/25 to 2027/28 to enable balanced budgets to be set. In addition, the Council has been granted Exceptional Financial Support (EFS) from the Government of up to c£66m which is repaid in part using capital funds from disposals.

Asset rationalisation is also a significant part of the Council's Improvement Plan 2024 and Budget Strategy.

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

**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 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.

**1. Recommendation(s):**

- 1** To make the assets detailed in the exempt appendix surplus to the requirements of the Property Trading Account/operational service area (as applicable) and available for disposal.
- 2** To delegate approval of the final terms of sale to the Corporate Director for Growth and City Development.
- 3** 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.
- 4** To delegate the approval of any licences/agreements or required legal agreements to facilitate a sale, to the Director of Economic Development & Property where not already captured by the Scheme of Delegation.

## 2. **Reasons for recommendations**

- 2.1 Disposals will generate significant capital receipts which can be used by the Council as outlined in the budget strategy. They will also mitigate potential future financial risks arising from capital and revenue expenditure required to meet the Council's statutory, maintenance and repairing obligations and remove resource-intensive assets from the Council's ownership. Sales will also remove any costs associated with voids/re-letting and refurbishment.
- 2.2 **Recommendation 1** - To make the assets detailed in the exempt appendix surplus to the requirements of the Property Trading Account/operational service area - The properties identified in the exempt appendices have been identified as suitable for sale via a detailed review process. The proceeds will allow the Council to meet its requirement of repaying EFS 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.
- 2.3 **Recommendation 2** - To delegate the approval of any required asset management activity and/or method of sale to the Director of 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.
- 2.4 **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.
- 2.5 **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.
- 2.6 Property-specific reasons are contained in the exempt appendices.

## 3. **Background (including outcomes of consultation)**

- 3.1 The council had faced a budget gap of over £50m for 2024/25 due to issues facing councils across the country including increased demand for children's and adults' social care, rising homelessness presentations and inflation. This has meant savings of over £36m need to be made between 2024/25 to 2027/28 to set a balanced budget, which is a legal requirement for all councils. In addition, the council, has been granted Exceptional Financial Support (EFS) from the Government of up to c£66.143m - £25m for the current year, 2023/24 and £41.143m in 2024/25. EFS is not additional funding from Government but allows the council to use capital resources, including from asset sales to fund revenue costs for services.

- 3.2 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.
- 3.3 The assets identified for disposal are a mix of property types comprising industrial estates and premises, and a surplus operational asset. Assets have been identified for sale based on their individual characteristics. Asset-specific issues are referenced within the Exempt Appendix.
- 3.4 Local Ward Councillors will be advised of the proposal to dispose of the assets which form the subject of this report.

#### 4. **Other options considered in making recommendations**

- 4.1 **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 later this decision will be recommended to the Corporate Director for Growth & City Development.
- 4.2 Capital expenditure is required on most 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.
- 4.3 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).
- 4.4 In the absence of a valid EPC certificate, the Council is prevented from letting assets which fail to meet required EPC legislation. EPC requirements are becoming increasingly stringent, with the next major uplift in standards being implemented on 1st April 2028 (delayed from 2027).
- 4.5 Failure to expend monies may result in fines, loss of income, reputational damage and incur void costs and impairment in capital value.
- 4.6 It is also anticipated market sentiment will turn negative on non-EPC compliant assets in advance of the 1<sup>st</sup> April 2028 deadline (delayed from 2027).
- 4.7 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.

## 5. Consideration of Risk

### 5.1 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 – this may be suitable for some assets.
- Allocate dedicated specialist resource with significant experience of commercial property disposal transactions.

### 5.2 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 any impact on the commercial property market.
- 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.

## 6. Best Value Considerations, including consideration of Make or Buy where appropriate

The Council has an obligation to achieve best consideration when disposing of property assets in accordance with S123(a) of the Local Government Act 1972.

This can be achieved by adopting the following measures:

- 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 to provide a competitive bidding environment between prospective purchasers, to secure a disposal within a defined timescale, and on an unconditional Basis.
- Use of sealed bidding process to provide a competitive bidding environment between prospective purchasers.
- Allocate dedicated specialist resource with significant experience of commercial property disposal transactions.
- Working collaboratively with procurement colleagues to secure high service standards and competitive pricing from external suppliers.

## 7. **Commissioner comments**

7.1 Commissioners are content with the report.

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

8.1 The Finance team comments are contained in the exempt appendix.

### **Capital**

Tom Straw, Senior Accountant (Capital Programmes) – 27th September 2024.

### **Revenue**

Sarah Baker, Senior Commercial Business Partner (Corporate Landlord) – 27th September 2024.

## 9. **Legal colleague comments**

9.1 The Legal comments are contained in the exempt appendix.

Mick Suggett; Solicitor and Team Leader – Conveyancing – Date: 23rd September 2024.

## 10. **Other relevant comments**

### **Strategic Assets and Property**

10.1 The assets identified in the exempt appendix have been subject to the Council's Asset Rationalisation process and they have been reviewed with key officers 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.

The individual sales will be progressed by the Disposals and 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.

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.

Progress on disposals will be reported weekly to key colleagues and any delays/ withdrawals will be managed appropriately.

**Beverley Gouveia; Head of Property - Strategic Assets & Property – Corporate Landlord Services, City Growth and Development – 25<sup>th</sup> September 2024.**

## 10.2 Procurement

If the sites set out in the exempt appendix are disposed of for the best consideration that can reasonably be obtained, then there would be no conflict with public procurement law. The method of disposal has yet to be determined so we are unable to give comment on specifics; an appropriate method such as auction or competitive tenders would be preferable, and further advice can be sought from the Procurement Team to inform that decision. In the event that the method of disposal being considered would generate less than best consideration then further advice must be obtained before proceeding.

Appointment of professional consultants such as sales agents etc. must be made in compliance with Contract Procedure Rules and relevant provisions of the Public Contracts Regulations 2015 or its successor, and advice should be obtained from the Procurement Team to ensure this happens prior to making any such appointments.

The intention of any procurement activities will be to seek suitably qualified and experienced providers to carry out the disposals at the best value to the Council and the evaluation of any proposals received will include fees or percentage of sales as a key evaluation criteria.

**Paul Ritchie – Procurement Manager – 27<sup>th</sup> September 2024.**

### 11. **Crime and Disorder Implications (If Applicable)**

11.1 Not applicable.

### 12. **Social value considerations (If Applicable)**

12.1 Not applicable.

### 13. **Regard to the NHS Constitution (If Applicable)**

13.1 Not applicable.

**14. Equality Impact Assessment (EIA)**

14.1 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.

**15. Data Protection Impact Assessment (DPIA)**

15.1 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.

**16. Carbon Impact Assessment (CIA)**

16.1 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.

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

17.1 None.

**18. Published documents referred to in this report**

18.1 None.