

Wards Affected
All

Cabinet

9 July 2012

Asset Management Review

Property Disposal Policy and Strategy

Report of the Director – Economy and Environment

1. ISSUE

- 1.1 To seek Cabinet approval to implement new arrangements for the disposal of land and property assets that are surplus to the Council's requirements.
- 1.2 The AM/FM Programme Board has endorsed the following recommendations, for consideration and approval by Cabinet:
 - The introduction of revised governance arrangements relating to the approval of the disposal of surplus land and buildings, including a revised consultation process.
 - An improvement to the Council's property disposal procedure and processes, which incorporating the Council's approach to Community Management of Assets (Asset Transfers) and Community Right to Bid provisions within the Localism Act 2011.
- 1.3 These changes will bring about a strategic, efficient, and commercially driven property disposal strategy and programme.

2. NEED FOR A DECISION

- 2.1 The disposals governance arrangements, processes and procedures need to be improved to ensure that AM/FM saving targets can be realised through reduced property outgoings. The centralisation of property under the Economy and Environment Directorate provides the opportunity to do this.
- 2.2 As the existing arrangements were approved by Cabinet in 2006, any alterations similarly need to be approved by Cabinet.

3. RECOMMENDATION

3.1 That Cabinet recommend for approval by Council the following:-

- The implementation of the revised governance arrangements, for the disposal of surplus land and buildings as set out in this report and in Appendix 1 attached.
- The revised consultation process as set out in this report.
- The delegation levels and responsibilities as set out in this report. These changes will require amendment to the Council's constitution and will need Council approval.

3.2 Cabinet note that the related internal officer procedures and processes are revised under officer's delegated authority.

4. BACKGROUND/CONTEXT

4.1 In order to help meet budget savings of some £55 million by 2014/2015, Calderdale Council is assessing how its property estate can be rationalised through better property utilisation, and the fiscal benefits of disposing of assets surplus to requirements. The Council is also faced with a substantial backlog maintenance programme of approximately £44 million.

4.2 If these objectives are to be met, the Council needs to have in place a strategic, efficient and effective property disposal programme and associated policy and procedure. This will enable capital receipts and associated revenue savings to be optimised.

4.3 The current arrangements are considered inefficient and need to be updated to reflect the requirement to achieve savings and meet the requirements of the Localism Act.

4.4 Before the centralisation of the AM/FM function within the Economy and Environment Directorate, individual Directorates had control over the use, management and disposal of property used for the purposes of service delivery. This led to uncoordinated disposal decisions and an ad hoc disposal regime, based primarily on service delivery factors, rather than an overall strategic and commercial approach, informed by property professionals.

4.5 The existing process can be prolonged and unclear. This increases the associated costs and risks, limiting both the level of capital receipts and revenue savings.

4.6 Implementation of the Localism Act will also require some changes to be made to the current disposal process, in particular the requirement for all Councils to maintain a Register of Assets of Community Value and support the Community Right to Bid.

- 4.7 These provisions seek to give local groups and residents the opportunity to buy local assets (buildings and land), should they be planned for disposal. Community groups will also be able to nominate assets that they believe be of community value, so that these can be added to the Register of Community Assets, managed and maintained by the local authority. Public notification of the disposal of such assets must take place, which triggers a disposal moratorium. This provides the community 6 weeks to 'express an interest' in the asset, followed by 6 months to raise the necessary funds, during which time, the sale cannot proceed. This has significant implications for all Councils. The broader implications of the Localism Act and the practical arrangements regarding how these will be implemented across the Council have been reported separately to Cabinet.
- 4.8 Many of the Council's assets are likely to be considered to be Assets of Community Value, so the disposal programme must have regard to the timescales and processes set out within the detailed provisions of the Localism Act.
- 4.9 The disposal policy also needs to be revised to support a more robust process for reviewing applications for Community Asset Transfers under the Council's Framework for Community Management of Assets. Asset transfer is different from the Community Right to Bid as it is based on an application by a community group to take over management of an asset, usually on a long lease, for less than its market value. The proposal below therefore includes a review of the Framework to ensure that decisions regarding asset transfers are clearly made within the context of significant budget savings and capital receipts required from the rationalisation of the Council's property estate.

5. PROPOSAL

- 5.1 The Corporate Asset and Facilities Management (CAFM) team, in conjunction with Directorates, will continue to undertake phased asset management reviews of the Council's portfolio to assess the suitability of all property currently owned or occupied. This analysis will consider running costs, maintenance liability, potential disposal value, service delivery issues, amongst a number of other criteria. Various asset management reviews will be undertaken, by geographic area, property type, service delivery and other themes to determine a suitable composition of the Council's portfolio. These reviews will be undertaken jointly by the CAFM team and Directorates.
- 5.2 Strategic, often area based reviews will be a key process and Ward Members will be invited to participate. These reviews will take a strategic review of Council land and buildings, the assets of the Council's partners and will take into account both service and community requirements in the area. This will enable the needs of a locality to be considered and allow suitable dialogue and discussion. This will lead to recommendations to be made, not just about the disposal of assets but also including investment and commitment to provide for the needs of an area within the budget available. This will help address an important issue, improving on the existing arrangements, where the Community does not currently feel involved nor see clear linkage between disposal of property and reinvestment.

- 5.3 These strategic recommendations will be communicated to the AM/FM Programme Board, followed by formal local consultation with Ward Members. There will be occasions where potential disposals may arise outside of strategic or area reviews under independent or ad hoc arrangements. Formal consultation will also take place in these circumstances with Ward Members.
- 5.4 Formal consultation with Ward Members will be in writing and there will be a fixed period of 21 calendar days for this to take place. Ward Members must respond within this time frame. Any objection must outline their grounds for the objection. Cabinet should note that the existing arrangements require consultation with the relevant MP and through all Party Group Rooms. This will no longer be undertaken.
- 5.5 Immediately following the conclusion of consultation with Ward Members, the disposal will be published and be notified publicly. This is to comply with the new requirements of the Localism Act 2011.
- 5.6 As outlined above, the Localism Act then provides a 6 week opportunity, for relevant 'community groups' to express an interest in making a bid for the property. If, at the end of the 6 week period, no expression of interest has been received, the Council will then be able to sell the property in accordance with the approval process set out below.
- 5.7 If an expression of interest is received, under the legislation, the Council must allow 6 months for community groups to raise funds and submit a bid. If the property is owned by the Council, it is possible that a community group may request to make an application for asset transfer (at less than best consideration) under the Council's Framework for Community Management of Assets. However, the Council's criteria for assessing applications will be strengthened to ensure that this would only be the recommended option where the community value achieved would be of sufficient benefit to outweigh the loss of the capital receipt.
- 5.8 The AM/FM Programme Board will then consider the responses from the Ward Member consultation and similarly consider any Community Asset Transfer or Right to Bid. The AM/FM Programme Board will then confirm the disposal or otherwise and this will be progressed within the approval process and criteria set out below: -
- 5.9 **Approval by Cabinet** is required when:
- i) the valuation is £2million or above, or
 - ii) there are Ward Member objections during the consultation process, or
 - iii) the disposal is at less than best consideration i.e. a Community Asset Transfer, or
 - iv) it is a key decision as defined in the Council's Constitution, or
 - v) at the request of the AM/FM Programme Board, or
 - vi) requested by Cabinet, Council Leader, Director of Economy and Environment or Portfolio Holder for Economy and Environment.

5.10 **Approval by the AM/FM Programme Board** is required when:

- i) the valuation is in excess of £500,000, but less than £2million or
- ii) it is a particularly complex or sensitive property or
- iii) at the request of the AM/FM Programme Board or
- iv) at the request of Council Leader, or Director of Economy and Environment or Portfolio Holder for Economy and Environment or
- v) it is a Community Right to Bid (see 4.8 above).

5.11 Once a decision is approved by the AM/FM Programme Board, the CAFM team are authorised to proceed with the disposal under officers' delegated powers, subject to any conditions specified by the AM/FM Programme Board.

5.12 **The Lead for CAFM** (in conjunction with the Lead for Asset Management) should be authorised to action all other disposals, outside of the remit of Cabinet and the AM/FM Programme Board, as outlined above. The Lead for CAFM team should be authorised to proceed with the disposal under officers' delegated powers.

5.13 The presumption is that all disposals will be undertaken to ensure that the Council satisfies its legal obligations under s123 Local Government Act 1972 i.e. to secure best consideration reasonably obtainable.

5.14 A flowchart is provided in Appendix 1, which illustrates the process.

5.15 It is proposed that all future results of disposals are made available publicly, including the price and the name of the purchaser. This will demonstrate transparency and accountability.

6. CONSULTATION

6.1 The AM/FM Programme Board supports the proposals in this report. The report has been prepared in consultation with the Council's Communities Directorate to reflect issues arising from the Council's Framework for Community Management of Assets and the Localism Act.

7. FINANCIAL IMPLICATIONS

7.1 The disposal of surplus land and buildings generates capital receipts to contribute towards the Council's Investment Plan and Capital Programme. The recommendations put forward will ensure that capital receipts and associated revenue savings are maximised and achieved as quickly as possible.

7.2 Progress on the disposal programme will be reported to the Capital Programme Working Party, for information only.

- 7.3 To maximise returns, it may be necessary to instruct external commercial property and legal specialists. It is recommended that a budget is established within the CAFM team to provide such flexibility, particularly to facilitate valuations and related advice to inform the strategic decisions.
- 7.4 Wherever possible, the Council will seek the reimbursement of the Council's legal and surveyors fees from the purchaser in the terms of the disposal transaction.
- 7.5 There are budget implications arising from the requirements of the Localism Act, in particular, the costs of maintaining the list of Assets of Community Value and managing the scheme. The Government is committed to meeting the costs of the scheme but has yet to announce how it will do this. It is therefore recommended that the Council keeps track of any costs arising from the implementation of the provisions.

8. EQUALITY AND DIVERSITY

- 8.1 No equality and diversity issues arise.

9. CONTRIBUTION TO DELIVERING POPULATION OUTCOMES

- 9.1 Approval to the recommendations will address the following population outcomes contained within the 2011 Fresh Start for Calderdale Programme:
- MVM2 – Completing the Asset and Facilities Management review of Council buildings

10. RISK

- 10.1 The lack of suitable arrangements relating to the approval of the disposal of property surplus to the Council's requirements will reduce the level of capital receipts that can be achieved. Similarly, the level of revenue savings will not be maximised. The backlog maintenance position will not be improved significantly. Any delay to decisions on property disposals will increase costs and health and safety implications to the Council associated with holding property.

11. LEGAL IMPLICATIONS

- 11.1 The Council is obliged under s123 Local Government Act 1972, to secure best consideration reasonably obtainable for any property disposal.
- 11.2 It should be noted that any disposal at less than best consideration i.e. at an undervalue, must satisfy the well being powers test under the General Disposals Consents Order 2003 and potentially may also need approval of Communities and Local Government.

- 11.3 Changes to the delegation levels and associated responsibilities will require amendment to the Council's constitution and will need Council approval.

12. CORPORATE IMPLICATIONS

- 12.1 The recommendation will provide a strategic and corporate approach to property disposals.

13. CONCLUSION

- 13.1 Approval to the recommendations, as set out in section 3.1 of this report will facilitate a substantial improvement and provide a strategic efficient, and commercially driven property disposal strategy and programme.

For further information on this report, contact:

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The documents used in the preparation of this report are:

The documents are available for inspection at:

Disposal Flowchart

Appendix 1

