

Delegated decision report

DECISION UNDER DELEGATED POWERS

**DECISION CANNOT BE TAKEN BEFORE MONDAY, 13
AUGUST 2012**

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| Title | PROPERTY CAPITAL RECEIPTS DISPOSALS PROGRAMME 2012 – 2015 |
| Report Author | REPORT FOR THE DEPUTY LEADER AND THE CABINET MEMBER FOR THE ECONOMY AND THE ENVIRONMENT. |

EXECUTIVE SUMMARY

1. This paper sets out, in the context of the council's strategic asset management plan, which council owned land and property is expected to be disposed of in the current financial year and gives an indication of the assets that may be disposed of in the following years 2013-2015. It provides a clear statement of the properties which the council expects to complete the disposal of in the current financial year that can be used as a basis for corporate financial planning.

BACKGROUND

2. The strategic asset management plan (SAMP) governs the council's approach to the management and utilisation of its property assets, enabling the council to scrutinise and challenge the use of its assets and underpinning an agreed programme for the rationalisation of surplus properties. The capital receipts programme covers the capital disposals.
3. The council's constitution provides for a report to be brought forward, at the beginning of each financial year, following consultation with the Overview and Scrutiny Committee that indicates which of the council's properties are expected to be disposed of in year. The report is required to set out the objectives of the transaction, the proposed method of disposal, how the final decision is to be taken and whether a property has been declared surplus to operational needs.
4. The schedule in the appendix to this paper sets out the land and properties that are proposed to be disposed of in the current financial year and those which it is intended to bring forward for disposal in future years. However, it is important to note that the inclusion of a property on the list does not necessarily mean that it will be disposed of, as this may yet be subject to the outcome of a marketing exercise a separate Member decision, a service reorganisation, or other rationalisation plans, that have yet to be agreed. It should also be noted that there are a significant number of risks associated with a property transaction that could have a negative impact on the time taken to complete the disposal of a property.

5. The disposal of any council property is likely to have a relatively high profile within the community in which the property is situated and in some cases across the whole Island. The schedule of proposed disposals for 2012-2015 (attached as an appendix) therefore proposes the organisational level at which the final decision to dispose of a property will be taken. Lower value decisions are more likely to be less contentious and will, in the main be taken by officers in consultation with Members where necessary; whilst the more high profile higher value disposals will be subject to further delegated decisions taken by the cabinet member or ultimately the cabinet itself following the publication of a report setting out the details of the proposed transaction. Those properties where disposal decisions have already been taken are shown in the schedule.
6. As a rule the disposal of all property will be on the open market and without any restrictions being imposed on the future use of the property in order to achieve the best financial offer to the council for the property. Exceptions to this principle shall only be by agreement, in advance with the responsible cabinet member(s) and will only be of two forms; restricted marketing and open market but with conditions imposed in respect of the use of the asset (including community asset transfer).

Restricted marketing

7. In a limited number of situations where a strong business case supports the proposal, a property might be disposed of through restricted marketing to a single party or a very limited number of parties. The reasons for this will be put forward within the relevant report at the appropriate time together with independent valuation advice as required under the constitution. Such a party is often referred to as a special purchaser which is defined by the Royal Institution of Chartered Surveyors (RICS) as “a purchaser to whom a particular asset has a special value because of the advantages arising from its ownership that would not be available to general purchasers in the market”.
8. A restricted market transaction is likely to occur where an individual party has a specific or existing interest in a property (such as a sitting tenant; or ownership / control over adjacent land which when combined with the subject property might add value or other potential; or an external interest that again adds value or increases potential) which, when entered into, is likely to lead to the council achieving a higher capital receipt or improved delivery of council objectives (albeit this might be at less than market value) or a combination of both.

Open Market with Conditions on Use

9. In this case the council may wish to see a property continue to be used for its current purposes and will therefore condition its disposal on this basis. By so doing the council may be foregoing the maximum capital receipt that it could achieve for the property on the open market without restriction but could be securing an important asset for the community in the future. Recent examples of properties marketed in this way include Shanklin Theatre and Ventnor Winter Gardens. In the case of disposals undertaken in this way it is for the relevant council service to identify whether there is a need for service delivery to continue to be provided within the property under different operational arrangements.
10. Community asset transfer is a process whereby voluntary community organisations seek to take over the management and/or ownership (generally on a leasehold basis) of

unused, or underutilised, council land and buildings, generally at market value (but in very limited cases below market value), in such a way that their occupation leads to benefits to the community, benefits to the council, and benefits to the organisation taking ownership of the asset.

11. Any such transfer must be in accordance with the council's Community Asset Transfer Policy. The reasons for such a disposal will be clearly set out within the relevant report at the appropriate time.
12. The property disposal schedule 2012-15 (attached as an appendix) identifies the properties that are known to be, or likely to be, surplus to the council's needs at the time of its production. As other properties are identified for disposal through the council's business processes officers will need to agree with the relevant cabinet member(s) when the disposal might be achieved and by what process, taking into account the council's capacity to deliver the programme of disposals already agreed.

STRATEGIC CONTEXT

13. In December 2010 the council's cabinet agreed the future shape and direction of the organisation of which one of the key principles is "the council will actively seek to sell or dispose of assets that are surplus to requirements where practicable to maximise capital receipts, or lease them where it is not."
14. The disposal of council assets will contribute towards a number of the Isle of Wight council's priorities, as detailed in the Corporate Plan for 2011-2013.
 - Raising Educational Standards: The sale of surplus school sites which are no longer required for the provision of education as part of the schools' reorganisation will generate much needed capital funds to reinvest in the Schools' Reorganisation Programme, assisting in the provision of new educational facilities.
 - Delivery of budget savings through changed service provision: Delivering services in different ways will allow the release of council buildings listed on the attached appendix, thereby creating significant savings of accommodation and maintenance costs, as well as generating capital receipts.
 - Housing and Homelessness: The redevelopment of surplus assets for residential use where possible will increase the number and quality of houses provided on the Isle of Wight, including the delivery of more affordable housing where possible.
 - Regeneration and the Economy: Seeking the best quality use of surplus/disused property assets may ensure high quality regeneration opportunities are realised. The council can impact this through the disposal strategy and by joint working with adjoining landowners to enable regeneration opportunities which might not otherwise be realised.

CONSULTATION

15. The inclusion of the majority of the surplus assets in the schedule has followed a process of consultation with relevant stakeholders undertaken by the relevant service area. In many instances this will have informed the method of disposal to be followed.

16. As part of this decision process, the capital receipts programme will be shared with town and parish councils and their views taken into account before the final decisions are made.
17. Further reports to inform the decisions relating to the disposal of individual properties will be subject to further consultation with relevant stakeholders at the appropriate time, as necessary.
18. Overview and Scrutiny Committee reviewed the capital receipts programme at its meeting of 17 May 2012 and its recommendations have been incorporated into the schedule of disposals. It was particularly concerned with two properties on the schedule:
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Viewpoint Car Park – Blackgang: The original schedule identified that this may be disposed of to a special purchaser but with conditions to protect the continued and long term public use of the facility. Given the interest in the property it is now proposed that its disposal is considered under the open marketing arrangements and with the conditions of its disposal being consulted on and agreed before any marketing activity commences.

The Guildhall – Newport: The disposal under the open marketing route with conditions has been the subject of previous council discussions. It can not begin however until a condition survey has been completed and the conditions of its disposal have been consulted and agreed, recognising the iconic status of the building in Newport Town Centre

FINANCIAL / BUDGET IMPLICATIONS

19. The council's Medium Term Financial Plan (MTFP) approved by Full Council in February 2012 has an expectation of capital receipts in the order of £1m being achieved from the disposal of council property (excluding schools) in 2012/13.
20. The schedule of disposals attached as an appendix to this paper has therefore been prepared to be consistent with the needs of the MTFP.
21. The sale of surplus council properties will also create revenue savings, as rates, maintenance, utilities, etc will no longer need to be funded.
22. Cabinet has previously agreed (decision reference 76/07, taken on 19 March 2008) that the receipts from the disposal of school sites will only be used to support the delivery of the school reorganisation programme.

LEGAL IMPLICATIONS

23. The council has the power to dispose of its property for best consideration under Section 123 of the Local Government Act 1972. Best consideration does not necessarily mean the highest price achievable but can also be a combination of price and community benefit, with the latter having to be assessed in terms of value to ensure that best consideration is indeed achieved.

24. Sale of property at less than best consideration is not proposed in relation to any of the assets identified in the appendix other than in cases where the council has agreed to a disposal with restricted use, and then the value will reflect the restrictions applied. The final decisions in relation to such properties will identify clearly the community benefit being achieved in the disposal, and the decision for any such disposal will be a cabinet member delegated or cabinet decision.

PROPERTY IMPLICATIONS

25. The properties listed for disposal within the appendix attached are consistent with the council's overall needs of its property portfolio as expressed in the 2011 Strategic Asset Management Plan.
26. Specific property issues, such as landlord and tenant implications, will be dealt with by individual delegated decision reports for properties as and when they sell in due course.

EQUALITY AND DIVERSITY

27. The council as a public body is subject to general and specific duties under equality and diversity legislation and as such has a duty to impact assess its service, policies/strategies and decisions with regard to diversity legislation and the nine 'protected' characteristics (race, gender reassignment, disability, age, sex and sexual orientation, religion or belief, pregnancy and maternity, marriage and civil partnership). Where operational premises have become surplus to requirements the service that has vacated will generally have undertaken an equality impact assessment in respect of its changes to service delivery that have resulted in the property being vacated. These assessments will be referred to in the individual disposal reports as each disposal decision is taken.
28. The council will have regard to its duties under the equality act as each disposal comes forward and where appropriate Equality Impact Assessment will be undertaken.

SECTION 17 CRIME AND DISORDER ACT 1998

29. Crime and disorder issues will be dealt with through the delegated decision reports for individual properties as and when they sell in due course. The council will ensure that surplus properties remain vacant for as short a time as possible to minimise the potential for crime.

OPTIONS

- (i) Agree the proposed schedule of property disposals for the period 2012-2015 attached as an appendix to this report
- (ii) Vary the proposed schedule of property disposals for the period 2012-2015 attached as an appendix to this report
- (iii) Seek revised proposals for the disposal of property in the period 2012-2015 to be considered at a future date.

RISK MANAGEMENT

30. If the council does not dispose of surplus assets or rationalise its operational accommodation portfolio it will not be making best use of its assets. It is also at risk of incurring higher revenue costs than necessary and increasing the backlog of required property repairs. These risks can be mitigated by approving the delivery of the approved programme of property disposals.
31. The capital investment programme may be at risk if the capital receipts, upon which it is partly based, are not delivered in year. As non-delivery is most likely to be due to external market influences (such as the general economy, or downturns in key specific markets, such as housing) this can be difficult to mitigate. Regular performance monitoring will allow any potential shortfalls to be identified at an early stage thus allowing the programme to be reviewed (and reprioritised as necessary), and / or different funding sources to be identified.
32. The disposal process does not just require the Strategic Assets Team's resources; other council services are also required, in particular Legal services. This is especially so at the moment with the number and complexity of property transactions being undertaken. The number of disposals and general level of legal property work is unlikely to reduce for at least the next five years. Accordingly, a substantial risk to the delivery of the capital receipts programme would be a reduction in the capacity of legal advice to the council.
33. An additional resource risk relates to services declaring properties surplus to requirements outside of the agreed programme and at short notice, with an expectation of a rapid disposal. This may have a similar risk impact on the delivery of the programme as a whole as identified above.
34. Generally properties being marketed for disposal will be vacant and there is an inherent risk of vandalism whilst empty. The longer a property remains vacant the more potential there is for such damage and the greater the likely revenue cost of "caretaking" the site to reduce this risk (generally, the service that vacated the property will remain responsible for these revenue costs until a disposal has been completed). To minimise this risk, property disposals are planned as far in advance as practically possible.
35. Best consideration needs to be achieved in respect of a disposal of assets as this is required under the Local Government Act 1972 and also any prudent local authority would seek to maximise such receipts in order to reinvest this money into priority services. If the authority does not follow this process it is at risk of not achieving best consideration and also at risk in respect of the transparency of its property transactions.

EVALUATION

36. The council has a larger property portfolio than is required to deliver its core business, and it should aim to reduce its landholdings incrementally, making better use of resources in all respects.
37. Capital receipts from the disposal of surplus land and property provide an opportunity for the council to reinvest in its core services and activities, improving the overall offer to the community and value for money without the need to resort to borrowing with consequent impact on the revenue budget.

38. Whilst the council could choose to maintain an investment portfolio of non-operational assets this would require significant funding without immediately identifiable returns and would also limit the council's ability to generate capital receipts and to improve the delivery of its core services.

RECOMMENDATION

39. It is recommended that option (i) is adopted and that the council

"Agree the proposed schedule of property disposals for the period 2012-2015 attached as an appendix to this report".

APPENDICES ATTACHED

40. [APPENDIX](#) - Property Capital Receipts Disposals Programme 2012-2015.

BACKGROUND PAPERS

41. The previous Property Capital Receipts Disposals Programme 2011 – 2014 reference 43/11.
42. Strategic Asset Management Plan 2011.
43. Schools Reorganisation – Outcome of January/February Consultation, Cabinet paper 76/07
44. Disposal of School Sites, Cabinet member delegated decision 22/11

Contact Point - Andrea Jenkins, Senior Surveyor,
☎ 01983 823263 e-mail andrea.jenkins@iow.gov.uk

STUART LOVE
*Director of the Economy and the
Environment*

COUNCILLOR GEORGE BROWN
*Deputy Leader and the Cabinet Member
for the Economy and the Environment*

Decision

Signed

Date
