

Major Development Sites

8. The Council owns @ 120 acres of greenfield potential residential development land in south east Cardiff – essentially the remaining undeveloped areas from the St. Mellons comprehensive development started in the 1970s. The area is split into three separate sites – Trowbridge Mawr, Areas 9-12, and a former secondary school site. Planning consent was sought and obtained for each site between 2003 and 2006 as a prelude to a series of phased disposals. Unfortunately, the first disposals at Trowbridge fell through, and the subsequent recession has stopped further promotion of the land. The original consents have lapsed, although an application to extend submission periods at the former Secondary School site has recently been submitted. This is the smaller of the 3 areas (14 acres), and plans are currently being worked up to determine its development potential.

As regards the other two sites (60 and 46 acres respectively), it is proposed to commission a national property development consultancy practice to work alongside the in house development team in Strategic Estates and other Council specialists to advise on the strategy necessary for moving these sites forward. The current economic climate is a very different one to the buoyant markets in the early to mid 2000s, and a consultant with the right background, experience and contacts will be invaluable in assisting the Council on the best approach to maximise value from these sites, to promote balanced integrated developments, and to help coordinate the preparation of the inevitable range of pre-planning surveys, development briefs and consultation initiatives which will be required.

Cost Considerations

9. The timing of marketing will require critical consideration, and it is most probable these major sites will be brought forward on a phased basis over a period of years to avoid market saturation. The three major sites have the potential to yield significant financial benefit over the medium term, but considerable effort will be required over a sustained period to bring them to fruition. At this stage it would be a hostage to fortune to speculate to any degree of detail as to the estimated level of receipts which might be realised.

The Council has previously adopted the principle (in the majority of cases) of disposing of property with the benefit of an appropriate alternative planning consent. This increases value and has proved to be a sound approach by giving certainty to bidders, reducing “hope value”, and hence generating higher offers. Inevitably there are costs associated with disposals – even going straight to the market will incur advertisement and staffing costs, but the benefit of additional investment “up front” on securing alternative consents has been demonstrated by the level of receipts since 2000 (just under £50M in total with an average of £4.93M per annum), and in receiving encouraging responses from bidders. Supporting studies for planning applications for alternative uses

take several years to successfully conclude, and significant professional judgement will be involved in the process. The use of consultants will sometimes be appropriate if they have particular experience or knowledge, which is not available in house, whilst staffing resources will be critical in managing and monitoring the disposal process. The current complement of two experienced officers has recently been strengthened following internal reorganisation by the recruitment of a graduate valuer to deal with more straightforward sales thus ensuring experienced officers devote more time on progressing the major sites.

Conclusions

12. The economic climate remains uncertain, and this is likely to be a key consideration governing decisions around the marketing of Council land for the foreseeable future. Conversely, the financial climate renders the need to dispose of surplus assets to generate capital and reduce revenue outgoings all the more pressing. This careful balancing act takes place against a background of local sensitivity in many cases, but if the Council is to respond quickly to opportunities, and to the dynamics of the property market, some of its processes and procedures need to be improved. The disposals policy proposals reflect this. Essentially a leaner and fit for purpose estate can deliver capital receipts and revenue savings, with capital investment going further over a smaller portfolio of buildings.

Reasons for Recommendations

13. a) To ensure the Executive is kept briefed on this important part of the Council's work.

b) To streamline the procedures for the disposal of surplus property as summarised in section 9 of Appendix I.

Local Member Consultation

14. The Procedural Policy highlights and strengthens the arrangements for consultation with Ward Members at appropriate junctures throughout the disposals process.

Legal Implications

15. Legal Advice will be based on value for money.

Financial Implications

16. Ensuring the efficient use of the Council's property estate can result in improvements to service delivery, reduce revenue costs and also help to address some of the backlog maintenance issues. Disposal of property will generate capital receipts for re-investment and increase the affordability of the Council's capital programme, however, generating those receipts may involve an upfront capital and revenue cost. Capital and revenue expenditure may need to be incurred in order to bring sites

APPENDIX 1

CARDIFF COUNCIL

PROCEDURAL POLICY FOR THE DISPOSAL OF PROPERTY

1. Introduction

The Council owns or has interests in an extensive property estate with an estimated existing use value in the region of £1.5 billion. The Council's property requirements are kept under regular review through the mechanism of corporate asset management planning. The disposal of surplus property, or a property which can be made available for sale following external expressions of interest, forms a significant dimension of the management of the Council's estate. This policy statement draws together current policy statements, procedural guidance, working practices and operational considerations into one composite corporate document to dictate the approach the Council will in future take in the disposal of its property assets.

2. Context

2.1 Corporate Plan Objectives CC09 – states the Council will adopt a Corporate Asset Management Plan by December 2010 with a specific measure of success being a reduction in the number of properties in Council ownership. Supplementary to this one of the key aims of the STC programme relates to property with the objective of reviewing and rationalising the estate.

2.2 Property Review and Subsequent Disposal – must have regard to the Council's Corporate Plan, and relate to Service Objectives reflecting that property is essentially there to support front-line service delivery or other social, economic or regeneration policies of the Council.

2.3 This Policy has been developed in the context of corporate asset management planning, as an integral part of a more structured approach to rigorous rationalisation of the Council's property assets, and the acceleration of its property disposals programme.

3. Current Arrangements

3.1 Current Approvals Process – this was considered by the Constitution Committee at its meeting on the 27 July 2009. More recently, full Council considered a revised process for declaring property surplus to requirements, and the current process is summarised below:-

3.2 Operational Property – decisions to declare surplus to operational requirements are made by the relevant Corporate Director in consultation with the relevant Executive Member. Local Ward Members are notified of the intention to declare property surplus to requirements.

3.3 Non Operational Property – there is currently no requirement to seek Senior Officer, Executive Member or Ward Member approval to declare

surplus, although in cases of doubt the matter is referred to the City & County Solicitor and City & County Treasurer for determination.

3.4 Approval to Declare Operational Land Surplus to Council Requirements – Consultation is undertaken with all Services and all relevant Ward Members. If a Ward Member objects a detailed report is referred to the Executive for a decision, otherwise the decision is determined by the City and County Treasurer in consultation with the relevant Executive Member.

3.5 Approval to Accept Offers – A detailed report is submitted in relation to both operational and non-operational property to a Corporate Director for approval if the consideration exceeds £100,000 who has power to approve sales up to a value of £5m. This requires reconsideration if either offer value or terms of sale are altered.

These procedures are unnecessarily formalised, do not reflect the emergence of corporate asset management planning as the principal vehicle for managing the Council's property assets, and do not adequately reflect the need for decision making to be aligned to the dynamics of the commercial property market where time is invariably of the essence.

4. Objectives

The Objectives of this policy are to:-

- 4.1 Ensure effective and economic use is made of property.
- 4.2 Maximise sale proceeds in a manner demonstrating fairness and equality of opportunity to all interested parties for the optimum benefit of the people of Cardiff.
- 4.3 Ensure expenditure on repair and maintenance of property is kept to a minimum commensurate with maintaining property values and in acceptable condition and order for their designated use.
- 4.4 Arrange the orderly disposal of unused or underused land and buildings once a rigorous assessment of the Council's future needs has been undertaken, having regard to prevailing market circumstances.
- 4.5 Provide property for housing, community and commercial development purposes, thus enhancing employment opportunities.
- 4.6 Ensure the disposal and management of property assets accords with, and assists delivery, of the Council's Local Development Plan and associated Supplementary Planning Guidance.

4.7 Support the Council's sustainability agenda by conditioning property disposals to achieve sustainable building design standards higher than the national minimum.

4.8 Provide additional funding through the realisation of capital receipts to support the Council's capital programme.

4.9 Only retain properties which help fulfil Council objectives or support front-line Council services.

5. Statutory Powers

5.1 In the majority of cases the Council's power of disposal is a general power contained in section 123 (i) of the Local Government Act 1972, which provides that the consideration secured should not, except with the consent of W.A.G, be less than the best that can be reasonably obtained.

5.2 Some concession to this principle is contained in the General Disposal Consent (Wales) Order 2003. This introduced Consent for sales below market value up to a limit of £2m.

6. How Disposals Arise:-

The opportunity or requirement for property to be disposed of arises in a number of ways where:-

6.1 A Service no longer requires property because of changing operational needs and there being no other need identified via the Asset Management Working Group for which that property would be suitable.

6.2 Potential identified for redevelopment or more beneficial use where the Service occupying that property can be satisfactorily re-accommodated.

6.3 Following review, Service needs can be re-provided by alternative means or by relocation.

6.4 As a result of approaches from interested parties, e.g. developers, adjoining owners, or tenants interested in acquiring the freehold interest in their leased property.

6.5 Opportunity arises for a major development project or regeneration scheme to be initiated, e.g. International Sports Village and Loudoun Square, where Council land is used to promote the provision of new development infrastructure or meet community regeneration objectives

6.6 A statutory duty arises; e.g. purchases by tenants under housing legislation.

7. Suitability for other Council Uses

Before properties are formally declared surplus to the requirements of the Council their suitability for other Council purposes must always be considered. Service Business Plans, related Services Property Plans, and the Corporate Asset Management Plan will direct this process. The Asset Management Working Group (AMWG), a senior officer forum which co-ordinates the rationalisation of the Council's property estate, keeps under regular review future Service property needs, potentially surplus property emerging through the system, and opportunities for cross service collaboration. Where alternative uses are identified a full business case for re-use will be developed using option appraisal techniques.

8. Community Asset Transfer Strategy

8.1 Strategy

8.1 This strategy outlines the Council's approach to Community Asset Transfer. It provides a clear, transparent and positive framework to assist in the consideration of appropriate transfers of assets to the third sector.

8.2 A fundamental aim of the Council is to support community development and empowerment of communities to help them deliver their own solutions to identified local needs and demands. People are the strongest and most valuable asset a community has, and the transfer of fixed assets to well organized and supported groups will encourage greater community activity and responsiveness in local areas

8.2 National Policy Context

8.2.1 The Local Government Act 2000 introduced a power for Local Authorities to promote economic, social and environmental well-being.

8.2.2 The Local Government White Paper "Strong and Prosperous Communities" October 2006, signalled opportunities for communities to manage and own public buildings, and highlighted the role asset management or property ownership can play in empowering communities, as well as providing a means of securing external investment.

8.2.3 Subsequently, the Quirk Review "Making Assets Work" May 2007 concluded that transferring public assets to communities leads to more responsive services that meet local community needs.

8.2.4 The Welsh Assembly Government has launched its Community Asset Transfer Programme (CAT), administered by the Big Lottery Fund. This programme provides both capital and revenue funding to support the transfer of assets, such as land and buildings, from public sector organisations to community ownership.

8.3.1 Local Policy Context

8 The Council's vision, contained in the Corporate Plan 2010- – 2013: sets out seven key principles for a more thriving local economy. This initiative contributes to them all to varying degrees.

8.4 Principles

8.4.1 Public assets owned by the Council are one of its major strengths. However, the council must balance the requirement to dispose of surplus or under utilised assets to provide funding to support the capital programme with the need to regenerate local communities through alternative use of buildings.

8.4.2. The Council recognises the opportunities offered by community management of assets. It also recognises there are risks to be considered as part of the process, not least the possible loss or reduction in capital receipts which could be realised should properties not be sold on the open market. It must also ensure schemes are properly scrutinised to ensure commercial viability, that there is local support ,and the organisation proposing to run the project is properly constituted and has sufficient competent people willing and available to ensure its effective and sustained operation.

8.4.3 Public assets managed by the community should be open and accessible to all. They should meet the Council's standards in respect of equality and diversity and have direct community involvement.

8.4.4 It is accepted that different methods of transfer may be appropriate depending on individual circumstances. These can range between short-term leases, long-term leases, and freehold transfer. Generally, a long-term lease will be considered most appropriate to allow the Council to retain some control, but where the transfer of a freehold is considered appropriate, covenants protecting the Council's interests will be secured in the transfer.

8.4.5 Service level agreements may be necessary in some instances where the Council wishes to ensure and safeguard the future provision of community facilities and council services. These will be particularly important in circumstances where, for instance, community centres are considered for transfer to community organisations. Assets can be transferred to allow direct community provision and access to alternative sources of funding, but based on an agreement to provide a certain level of continued community provision.

8.4.6 In most cases the council's power of disposal is contained in Sec 123 of the Local Government Act 1972, which provides that the consideration secured should not be less than the best that can reasonably be obtained. Some concession to that principle is contained in the Local Government Act 1972 General Disposal Consent 2003, which provides discretion to dispose of property at less than best consideration, subject to Member approval. In preparing its business plan the community organisation should formulate a financial offer for the property which reflects the inherent affordability of its

proposals, and the council will take this into consideration in evaluating the submission.

8.5 Process

8.5.1 Properties may be identified as potential candidates for Community Asset Transfer in a variety of ways. They are likely to be identified either by community groups themselves, by Service departments, or following a decision to declare a property surplus to requirements.

8.5.2 All properties and their potential for Community Asset Transfer should be assessed in the first instance by Strategic Estates (SED) and will have regard to the Corporate Plan and Corporate Asset Management Plan. The status of the property, including its tenure, open market value and potential for realisation of a capital receipt, will form part of the assessment, as will the potential community benefits of transfer.

8.5.3 Should a property be initially confirmed as suitable for Community Asset Transfer the next stage will be to identify potential projects/proposals appropriate to the property. Consultation with internal departments of the Council will be undertaken through the Asset Management Working Group, together with Local Members. It is expected these consultations will identify all potential community organisations, who have the capacity and interest in taking appropriate projects forward.

8.5.4 Following feedback from Departments and Local Members, all relevant organisations will be contacted with details of the property and requested to submit full business plans. The business plan must include detailed proposals including projected capital and revenue costs, financial offer, proposed funding and other sources of income, details of community support and benefits, sustainability and projected timescales, together with details of the legal and constitutional make up of the organisation demonstrating legal ability to take a conveyance of the property.

8.5.5 All submissions will be fully assessed by SED in conjunction with internal departments, Local Members, and where necessary, relevant external organisations. Financial information will need to be verified and funding sources confirmed as part of this process. An options appraisal process will be undertaken to determine the appropriate approach to take.

8.5.6 Reports will be brought to the Executive to consider all recommended Community Asset Transfers.

9. Decision Making Process

The following procedures are designed to streamline current working practices:

9.1 *Where a service no longer requires an operational property – as now* the Service will prepare a report to be approved by the relevant Corporate Director in consultation with the Executive Member that the property is surplus to its requirements. Ward Members will be advised that consideration is given to declaring the identified property as surplus to Service requirements.

9.2 *Where SED identify opportunities for development or disposal of operational properties* – these may arise following property review or external enquiry. SED will discuss with the relevant service, identify scope for Service reprovision/relocation if required, and institute consultation as set out in 9.1 above.

9.3 *Where SED propose the disposal of non-operational property* – the business case and options for disposal will be discussed at regular frequency with the City and County Treasurer and the Executive Member for Resources and appropriate actions agreed in individual cases.

9.4 A surplus and potentially surplus properties schedule covering all properties is maintained by SED and reviewed regularly by the Asset Management Working Group (AMWG). Where alternative Service interest arises this must feature in the relevant Service Property Plan, and proposals for reuse considered by the AMWG. The relevant Corporate Director, Executive Member and Executive Member for Resources will consider the business case for reuse of property for alternative Council purposes.

9.5 The surplus and potentially surplus schedule will be circulated to all members of Council twice a year for information. Where questions or comments arise these will be referred to SED for response.

9.6 At the earliest appropriate juncture the local member will be advised of the proposed disposal strategy in individual cases, including planning considerations, redevelopment, and disposal timescales. Where concerns arise these will be referred to the Executive Member for Resources for consideration.

9.7 *Definition of operational land* – This is not legally defined, but the following definition was set out in the 25th March 2010 report to Council which stated: " operational land/property shall mean Council land and property held to facilitate delivery of Council services to include without limitation land and properties such as offices; schools, and associated playing fields; nurseries; youth centres; caretakers houses; libraries; community centres and halls; sport/other leisure out door centres and pools; residential homes; day and training centres; enterprise centres; housing area offices; depots; civil amenities sites; cemeteries; crematoria, laboratories; animal pounds; public conveniences; theatres and concert halls; historic buildings and civic residences; parks and recreation grounds; sports pitches; play areas and all associated buildings, changing rooms and ancillary residential

accommodation, but excluding land held for investment or development purposes. In the case of doubt, the City and County Treasurer and City and County Solicitor shall determine the issue.”

9.8 *Future of non-operational Land* – this will be considered by the AMWG and the relevant Client Service who may identify future operational use and, as per the procedure set out in 9.2 above, such use will be determined in a similar manner. The sale of non-operational land may involve freehold reversions, ground leases as initiated by tenants, or sales as an investment subject to tenancy to third party investors if it is determined the Council no longer has a strategic need for the property for social, economic, employment or regeneration purposes.

9.9 *Marketing arrangements* – as a professional activity, determining the most appropriate marketing methodology and coordinating all negotiations is a professional responsibility which will be exercised by the Corporate Property and Estates Manager for all property sales and major property related projects.

9.10 *Approval to accept offers* – the threshold for City and County Treasurer approval, as exercised by the Corporate Property and Estates Manager, to be increased to £1m per transaction, to reflect the rise in property values since the previous threshold was set.

10. Internal Consultation

10.1 A regular dialogue will be maintained with all Services where properties are potentially surplus to requirements, and future needs or requirements for reutilisation of property will be identified at the earliest possible opportunity. These will be kept under regular review by the AMWG who will formulate appropriate strategies, institute reviews and make recommendations to the appropriate Corporate Director or Executive Member where necessary.

10.2 Regular dialogue will be maintained between SED, the City and County Treasurer and the Executive Member for Resources who will maintain oversight of the disposals programme and who will present an annual report to the Executive of the Council’s disposals programme. This will include an assessment of future expectations in terms of the level of capital receipts, an assessment of the prevailing property market, a review of the previous year’s performance, and recommendations in terms of future reviews, opportunities for rationalisation or changes in policy.

10.3 Financial Services and Legal Services will be kept regularly briefed on policy related considerations and programme implementation generally in order that financial and legal considerations can be taken into account where necessary. In addition Financial and Legal Services will always be consulted and their advice sought on individual sales.

11. Notification and Liaison Procedures

11.1 The local member will be kept regularly briefed at all significant milestones during the disposals process.

11.2 A regular dialogue will be maintained with the Local Service Board to identify opportunities for cross agency collaboration both in the future use of property and to explore opportunities for joint development of surplus property.

12. Housing Estate

All disposals will be undertaken in accordance with prevailing Housing Act legislation.

13. Sales Procedures

13.1 *Sales on the open market* – the Council will normally sell its properties on the open market and always in accordance with this policy. The most appropriate advertising practices and marketing methods will be adopted.

13.2 *Special categories of purchaser.*

13.2.1 Local Organisations – see section 8 (Community Asset Transfers)

13.2.2 *Sales to former owners* – the Crichel Down Rules detail obligations on government departments to offer certain land back to original owners or their successors in title. These rules are not mandatory on local authorities, but it is recommended they should be followed as central government expects a high level of compliance.

13.2.3 *Sale to sitting tenants* – the sale of property to sitting tenants (both residential and business) may be affected by legislation which give tenants security of tenure and may affect value. In the case of some residential tenancies legislation gives rights to purchase at discounted values. Such disposals will always have regard to the relevant legislation.

13.2.4 *Sales of land to adjoining owners* – on receipt of a request SED will secure a non-refundable advance fee for carrying out the work necessary to answer the query, such fee be determined from time to time by the City & County Treasurer. If it is considered feasible to sell the land, the normal procedures above having been implemented, the procedures set out in the following two categories will be implemented:

13.2.4.1 Category 1 – for a plot which is land locked and can only be of use to the party requesting to buy, SED will negotiate

appropriate terms and will secure the best consideration having regard to the "marriage" value which may arise.

13.2.4.2 Category 2 – in all other cases land should be advertised for sale. If no better offers are received land may be sold to the adjoining owner at a price to be negotiated.

13.5 *Sales to Members and Council employees or persons connected with them* – providing there are adequate safeguards approved by the City and County Treasurer and City & County Solicitor there is no reason why Members or employees or persons connected with them should be denied opportunities available to other individuals. Where such interest arises the Chief Executive, City and County Solicitor and Executive Member for Resources will be advised.

13.6 *Enforced Sales* – where the Council is required to arrange the disposal of a privately owned dwelling acquired under the provisions of Sec 17 of the Housing Act 1985 where sale proceeds net of marketing costs are returned to the original owner where known, the disposal will accord with this policy in relation to marketing, valuations, pre sale preparations and methods and timing of disposal.

14. Valuation and Pre-Sale Considerations

Apart from exceptional cases disposal must always be at open market value. This principle applies to sales to the private sector and to other public bodies. In determining market value the following issues may arise:-

14.1 *Planning* – where a property has potential for redevelopment or change of use which might increase market value over existing use the grant (or prospect of) planning permission can be significant or vital. Thorough investigations into planning potential will therefore be undertaken and consent sought if considered feasible.

14.2 *Restrictive Covenants and use of agreements* – in every disposal it is the aim to ensure best consideration is secured reflecting reasonably foreseeable circumstances. If there is any doubt the property will usually be retained for future disposal once these doubts have been cleared. However, in order to accelerate the disposals programme it maybe appropriate to proceed without realising full development potential in some instances. The use of covenants, restrictions, ransom strips or other appropriate agreements may be necessary to secure an up lift of a further capital receipt in the future when/if subsequent development takes place.

14.3 *Lotting* - the main aim of lotting is to ensure the most attractive marketing arrangements are made to maximise disposal proceeds. The impact of disposals on other interests and upon any remainder of a larger holding needs to be assessed in light of good estate

management and possible further disposals including rights of access. Consideration should be given to the provision and timing of cross rights and infrastructure such as roads, sewers and mains services.

14.4 *Expenditure set against anticipated sale proceeds* – to maximise a property's potential, pre-marketing and post marketing enhancement expenditure e.g. planning costs, separation works, creation of accesses, commissioning of specialist consultants to co-ordinate planning related investigations etc, may be required. In addition to the annual provision for this contained in the capital programme further expenditure may need to be financed from the actual proceeds of sale in accordance with prevailing financial regulations. VAT implications may also arise and appropriate advice must be sought in each case. Until a sale is completed all ongoing costs associated with operational property will continue to be borne by the Service area previously occupying the property.

15. Methods and Timing of Disposal

Professional judgement has to be exercised in determining method and timing of disposal. If the property is to be offered for disposal in the open market the Corporate Property & Estates Manager will determine the most advantageous method of disposal. Appropriate reserves will be placed on property submitted for public auction, time limits will be imposed on formal tenders, and all bid submitted will be opened in the presence of authorised staff from SED.

16. Evaluation of Bids

Criteria for bids by tender will always be set out in sales particulars and working practice notes.

17. Use of Private Sector

Where agents or consultants are commissioned to assist in the marketing of property their competence, capacity, suitability and availability to undertake the work will be thoroughly assessed. Contract standing orders and procurement regulations will apply to the contract between the Council and its agents.

18. Conclusion

The sheer variety of property coming forward for disposal necessitates that each case must be dealt with on its merits but generally in accordance with these principles and policies. Many cases with special problems and potential sensitivities will need in depth consideration and research prior to marketing. Detailed and regular up dated procedural guidance and best practice notes will be prepared for the benefit of all staff working in this field.

