
Property Disposal Procedure

Reason for the Report

1. To provide the Committee with an opportunity to consider the Council's revised Property Disposal Procedure.

Background

2. The Committee has responsibility within its Terms of Reference for scrutiny of the Council's property estate. This is comprised of both 'operational' property from which the Council operates and delivers its services, and 'non-operational' or 'investment' property which is often let for commercial return or to promote local employment, small businesses and the economic regeneration of local areas. The Council's operational and non-operational estates both fall within the Investment and Development Cabinet Portfolio.
3. The Council has a five year Corporate Property Strategy (2015-20) in place, establishing clear targets to deliver the three strategic objectives of modernisation, rationalisation and collaboration. Delivery of the Strategy is set out in an annual implementation plan, the Corporate Land & Property Management Plan (CLPMP). This Plan has annual targets contributing to the five-year targets set out in the Property Strategy. It outlines plans for the year ahead, and provides explicit targets relating to the reduction in the size and cost of the Council's estate.
4. In April 2018 the Committee considered the call in of officer decision SED/PR/29303, the disposal of Wedal Road HWRC. In referring the decision back Members were

unanimous that officers had followed the appropriate protocol, however highlighted that there may be potential to reconsider the disposals protocol, and encouraged the service area to undertake a review as a matter of urgency. The service area has indicated that revisions have been made to its Property Disposal Procedure and this scrutiny will provide an opportunity to hear how protocols and procedures have been amended as a consequence.

Statutory Context

5. The Council is governed by a number of key statutes, standards and guidance in the disposal of its assets:-

- The Council has a general duty to obtain best price when disposing of assets. Section 123(2) of the Local Government Act 1972 requires local government bodies to obtain the consent of the Secretary of State (now Welsh Ministers) prior to disposing of an asset for a consideration that is less than the best that can reasonably be obtained.
- The Royal Institution of Chartered Surveyors Valuation – Professional Standards (Red Book) sets out the internationally recognised definition of Market Value, as “The estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arm’s-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion”;
- The General Consent (Wales) 2003 removed the requirement for local government bodies to seek specific consent for any disposal at any undervalue where the local government body considers that the disposal is in the interest of the economic, social or environmental well-being and the undervalue is £2,000,000 or less;
- The Welsh Government National Assets Working Group “Estate Co-ordination and Land Transfer Protocol” – a Best Practice Guide for the disposal, transfer, shared

use and co-occupation of land and property assets between publicly funded bodies in Wales. This seeks to make best use of assets resources and reduce the cost and time associated with the transfer and disposal of the public estate between public bodies in Wales. The key principles are for public bodies to work together to share strategies and occupational plans; for property requirements to be pursued initially through investigation of surplus public sector estate prior to market searches; to advertise available assets on e-PIMS prior to marketing. The transfer of assets under this protocol will be at market value, determined by a jointly appointed single independent valuation;

- Section 39 of Part IV of the Council Constitution – sets out the rules to be followed in all acquisitions and disposals of land and the authority under the Scheme of Delegations for such transfers.

6. The Council has previously followed appropriate procedures to address these requirements but, following the recommendation of the Scrutiny Committee in April 2018, has streamlined them to ensure robust systems are in place and that decision making at each step is transparent. These new procedures will be particularly important to support the effective delivery of the Council's proposed Medium Term Disposal Programme. The improvements will be presented to Scrutiny Committee on 16 January 2019.

Context - Property Governance Arrangements

7. For clarification, the **Asset Management Board** oversees implementation of the CLPMP, where the Chief Executive and Cabinet Member for Investment & Development ensure corporate oversight of the administration's objectives and strong links to the Asset Management Programme Board of Cardiff's Public Service Board, providing opportunities to work closely with other public sector partners.
8. The **Investment Estate Board** governs the Council's investment estate. The intention is that capital receipts generated from the sale of investment estate assets are reinvested to improve the yield of existing properties within the estate, or used to

purchase better quality and better yielding assets. For governance purposes the Investment Estate Board reports to the Asset Management Board

9. The Medium Term Disposal Programme for 2018/19 to 2022/23 will aim to deliver £40million additional capital receipts over the five years. However, the first £25million will fund the Council's contribution to the Band B Schools Organisational Change Programme.
10. In April 2018 Members were advised that the CLPMP included a review identifying the properties that could be sold to generate the capital receipts required. This would be reported to Cabinet with a New Disposal Strategy and list of assets designed to deliver the required receipts over the five-year period.

Previous Scrutiny

11. The Committee has previously monitored the Council's approach to property matters and management of the Council's estate on a number of occasions, following which letters have been sent to the relevant Cabinet Member. For information, and to inform this scrutiny of the refreshed Property Disposal Procedure, Members previous concerns and recommendations have centred around ensuring:
 - The Council maximises its returns for disposals, and that the target set in the CLPMP is based on selling assets at the market rate.
 - The Council secures good value for money for its commercial leases.
 - Decisions taken on disposals are made by reviewing all options, carefully weighing up the sale value versus the maintenance costs of the property.
 - That ward members are consulted on the extensive review of proposed disposals.
 - That procedures legally restricting the Council to one independent valuation when disposing of council land and property are appropriate and ensure the Council is supported in its need to maximise income from disposals.
 - Recognition that the Council has a responsibility to consider social benefits, the need to operate within Welsh Government guidelines, and to work with partners on asset disposal matters.

- Consideration of the community and social benefit of Council property, as well as financial considerations;
- The risk to income of disposing of capital assets;
- Reassurance that disposals are assessed against an ethical and community focussed framework for investment;
- The importance of preserving the quality of the public realm in prominent locations to prevent over development with bland options;

12. The Committee has previously acknowledged:

- That the Council would look to capitalise on opportunities that may arise out of redevelopment schemes where it could share in the development value;
- That accountability for decisions taken by the Investment Estate Board would sit with professional officers advised by commercial advisers, reporting to the Leader, with an annual report of its activities included in the Council's Asset Management Plan for Cabinet consideration. Therefore, its interest would be in the performance of the Board in maximising income from the Council's estate.

13. The Committee has previously requested an annual report to the Policy Review & Performance Scrutiny Committee on the performance of the Investment Estate Board; and the Cabinets response to this request indicated that the Investment Board would be pleased to co-operate.

Scope of the Scrutiny

14. The Committee will receive a presentation and briefing on the revised Property Disposal Protocol and may wish to reflect how the protocol will assist in enabling the Council to meet its CLPMP targets.

Way Forward

15. Helen Thomas, Strategic Estates Manager, and Nia Morgan, Principal Surveyor, will be in attendance to present the revisions to the protocol and answer Members' questions.

Legal Implications

16. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

17. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATION

- The Committee is recommended to consider the information presented in this report and at the meeting; and whether it wishes to make any comments or recommendations to inform the Cabinets approach to Property Disposal Procedures.

Davina Fiore
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10 January 2019