

Audit Committee

28th June 2012



Disposal of Council Land and Property

Report of Stuart Timmiss Head of Planning

Ian Thompson Corporate Director of Regeneration and Economic Development

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Purpose of the Report

1. The purpose of the report is to outline current policies and procedures relating to the identification, valuation and disposal of land.

Background

2. Following discussions at a previous Audit Committee about the Single Asset Register in March, a request was made to bring forward a report to this Committee outlining current policies and procedures relating to the identification, valuation and disposal of land. The report outlines how the strategy links to targets for capital receipts to enable the Committee to have assurance that arrangements are in place to optimise the best use of assets and maximise returns.
3. The County Council owns a range of land and property which in light of the increasing focus on the way public sector assets are managed, these assets need to be actively managed in order to ensure that value for money is achieved from their use. The Corporate Asset Management Plan together with the Capital Strategy details the County Council's approach to property and land assets. Sitting beneath this overarching strategy are a number of policies and procedures relating to the valuation and disposal of land and these are set out below:-

Disposal and Acquisition Strategy

4. Prior to Local Government Reorganisation (LGR) the seven District Councils and County Council each operated their own policies and systems regarding the disposal and acquisition of land. In order to ensure a uniformity of approach it was considered appropriate that a strategy for all land and property disposals and acquisitions be adopted and a Disposal and Acquisition Strategy was developed and implemented to form part of its overall Asset Management Planning process.

The document is attached hereto and was approved by Cabinet in December 2010.

5. In terms of ensuring that the Council is seen to be getting Value for Money, the Strategy requires that all valuations for disposal should be undertaken at the earliest opportunity in the process by a suitably qualified member of the Royal Institution of Chartered Surveyors, and continually reviewed through the disposal process. Where it is decided to negotiate a disposal to a single party, rather than offer on the open market, all negotiations for disposals should be conducted or advised by a suitably qualified property professional, preferably a member of the Royal Institution of Chartered Surveyors.
6. Ombudsman guidance recommends that all negotiations should be conducted at the offices of the Council and with two people negotiating. This is not feasible in every case however this is the starting point to ensure and demonstrate that best practice is being adhered to.
7. All terms agreed for disposals require delegated approval from a senior manager and internal processes within Planning and Assets require at least two officers have the opportunity to consider disposal prices agreed by individual officers.

Disposal Programme

8. Following Local Government Review, work was undertaken to develop a Four Year Disposal Programme to underpin the Councils Medium Term Financial Plan.
9. In developing this Programme the work undertaken by the County Durham (Strategic Housing Land Availability Assessment) SHLAA Partnership was utilised. By way of explanation, under national planning policy, Local Planning Authorities are required to carry out a Strategic Housing Land Availability Assessment (SHLAA) annually. This is to ensure a flexible and responsive supply of housing land is maintained and identifies the amount of land which has the potential to accommodate new housing development over the next 15 years.
10. The Programme therefore included those County Council owned sites identified as suitable for development within the first five years of the SHLAA. It also included surplus property identified from Property and Service Reviews such as the Office Accommodation Project Strategy and sites identified from the Disposal Programmes of the former County and District Councils.
11. Please note that the programme is a Living Document and continues to be updated monthly to reflect market conditions and other surplus land and property identified from exercises such as Property/Service reviews and Service Asset Management processes.
12. The 2011/12 – 2014/15 Capital Budget agreed at County Council on 23 February 2011 had the following targets for Capital Receipts.

Income Type	2011/12	2012/13	2013/14	2014/15
	£m	£m	£m	£m
Land/Building Disposal	12.9	9.9	8.0	8.9
VAT Shelter	1.5	2.7	2.5	1.6
TOTAL	14.4	12.6	10.5	10.5

13. The achievement of land sales against target is monitored throughout the year through monthly officer meetings, a quarterly update report to the MOWG (Member/ Officer Working Group and through the RED Service Plan.
14. The new MTFP Capital Receipts targets reported to County Council on 22 February 2012 revised the annual income targets to take into account the slippage of income from 2011/12 to 2012/13. On that basis the current Capital Receipts targets are as follows (the Land Sale targets below excludes BSF/Schools Receipts).

Income Type	2011/12	2012/13	2013/14	2014/15	2015/16
	£m	£m	£m	£m	£m
Land/Building Disposal	4.482	15.934	7.500	8.400	8.400
VAT Shelter	1.500	2.700	2.500	1.600	1.600
TOTAL	5.982	18.634	10.000	10.000	10.000

Minor Disposals

15. The Council receives a large volume of requests to purchase land. Dealing with minor land sales is equally as time consuming as dealing with larger value and at the present moment in time we have received 540 requests and continue to receive around 25-30 new requests each month.
16. Following LGR applications of this nature were logged but not processed due to lack of resources as a consequence a backlog built up. To address this the Council have employed an Assistant Estates Surveyor and we now have a robust process in place which has resulted in addressing the backlog. To date 89 offer letters have been sent out after initial consultations and terms agreed on a number of requests with expected capital receipts of £105,250 with further sales of £140,500 in negotiation.
17. 50 requests are currently being processed and we have received combined processing fees amounting to £8,400.

Reactive Disposals

18. There are occasions where the Authority may wish to dispose of property that is not formally classified as surplus or considered to be under-performing. Examples include disposals to developers for community regeneration schemes by way of asset backed vehicles or nominated registered housing associations for the development of affordable housing.

Disposals at an Undervalue

19. Finally, there may be circumstances where a Local Authority considers it appropriate to dispose of land at an undervalue and, to allow Authorities more flexibility in such instances, the General Disposal Consent (England) 2003 came into effect on 4th April 2003.
20. The main provision of the consent is that there is a general consent for Local Authorities to dispose of land or grant a lease in excess of 7 years for less than the best consideration reasonably obtainable, where:-
 - I. The Authority considers that the purpose for which the land and property is to be disposed is likely to contribute to the promotion or improvement of the economic, social or environmental well being of the whole or any part of its area or any persons resident or present in its area; and
 - II. The difference between the full market value and the actual consideration payable does not exceed £2m
21. A Policy for the “Disposals of Land at an Undervalue” has been developed and was approved by Cabinet on 11th November 2009. This sets out the process to be followed and the Disposal and Acquisition strategy requires that in order to protect the authority’s interest in the event of subsequent sales, disposals should include, where, appropriate an asset lock, claw back or uplift clause, restrictive covenants, ransom strip retention, user rights or right of preemption.
22. It also requires that a valuation should be undertaken to identify the undervalue (unrestricted less restricted value) and an attempt should be made to financially value the economic, social or environmental benefits to the authority and community which justify a disposal at less than best price.
23. The overriding factor to be considered when disposing at below the best price is to ensure that it is within the authority’s power to so, and the reasons are well documented, transparent and justifiable.
24. A restructure within Assets will also ensure improved coordination of disposals and give priority to the realisation of capital receipts.

Recommendations and reasons

21. Members note the report to gain assurance that there are appropriate arrangements in place for the disposal of land.

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Appendix 1: Implications

Finance

No direct financial implications

Risk

None

Staffing

None

Equality and Diversity / Public Sector Equality Duty

None

Accommodation

None

Crime and disorder

None

Human Rights

None

Consultation

None

Procurement

None

Disability Discrimination

None

Legal Implications

None