

## County Council 22 March 2024

### Item 16(a) – Notice of Motion from Cllr Milne on Property Disposal

#### Briefing Note

Disposals of land by councils are governed by a duty to obtain the best value consideration. Section 123 of the Local Government Act 1972 states:

*123. Disposal of land by principal councils (England and Wales)*

- (1) Subject to the following provisions of this section, a principal council may dispose of land held by them in any manner they wish.*
- (2) Except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained.*

A general consent for disposals of land for less than best consideration was issued by the Secretary of State, and allows a local authority, if it wishes, to dispose of land for less than best consideration if it considers the disposal will contribute to the promotion or improvement of the economic, social or environmental well-being of its area and the undervalue is no more than £2m.

The Council has delegated authority to the Cabinet Member for Finance and Property to declare assets surplus and, to the Assistant Director (Property and Assets), in consultation with the Cabinet Member for Finance and Property, authority to dispose of property declared surplus and not required by another service of the Council or other appropriate body up to £500,000 in value. Disposal decisions above that value are for the Cabinet Member.

#### **Asset Management Policy and Strategy**

The Council Plan 2021-25 includes as one of its priorities: Making Best Use of Resources. The plan sets out the objective “to maximise the use of our assets by disposing of surplus assets and looking creatively at how we might use our assets to support economic growth”.

The [Asset Management Policy and Strategy](#) 2022/23 to 2025/26 which is aligned to the Council Plan has a key objective to manage, maintain, acquire and dispose of surplus property effectively, efficiently and sustainably, together with optimising financial return. Its objectives include - To ensure an options appraisal of all potentially surplus assets giving due consideration to a range of options including social, community or environmental use, particularly where this could complement the Council’s ambitions relating to climate change where it is viable.

#### **Declaring property surplus to requirements and disposing of property**

When a property or piece of land is no longer required for Council operational use, the asset is declared surplus by the Cabinet Member for Finance and Property. All surplus declarations are published as key decisions, are available for scrutiny and the local member is advised if an asset in their division is to be declared surplus.

Once an asset is declared surplus the Property and Assets team will work through the options for the asset in line with Our Objectives as set out in the Asset

Management Policy and Strategy. After the options have been explored a further decision is made on either a sale of the asset (for a capital receipt), let it for a rental income, transfer to the joint venture or to retain it for non-service purposes such as redevelopment for investment, regeneration, or for viable social, community or environmental use, particularly where this could complement the Council's ambitions relating to climate change.

If a decision is made to sell the asset and the value is above £500,000 there will be a second key decision by the Cabinet Member for Finance and Property, to approve the disposal, once again available for scrutiny and again the local member is advised at an early stage. The asset is marketed to ensure best value consideration through a fair and transparent process and the key decision will be taken following the conclusion of the marketing.

It can be seen from the options appraisal process that a surplus declaration does not mean an asset will automatically be sold, or even allocated to the Joint Venture for development. A decision to transfer an asset to the Joint Venture will be through a second key decision and available for scrutiny (as per the paragraph above). The Joint Venture (JV) is just one of a number of disposal options available and all other options will be considered. An asset will only transfer to the JV if this route is deemed the most beneficial overall.

### **Set out below are some variations to the general process**

In the case of property or assets acquired or designated for highway use, the authority to declare surplus to highway requirements is delegated to the Director of Place Services. Once surplus the property is passed to the Property and Assets team to assess options although in most cases disposal on the market is the most likely outcome for this type of asset.

In most cases of land previously used or held for education purposes, formal written consent to dispose is also required from the Secretary of State for Education. Such consent can impose conditions on the sale.

### **Planning and Local Plans**

Consideration of planning implications or the Local Plans of local planning authorities and matters such as the form of any proposed development would be carried out as part of engagement with the relevant planning authority in accordance with standard planning requirements. This would be the case for any development proposal, whether within the JV or otherwise.

### **Lee Harris**

Director of Place Services