

**PROPERTY DISPOSALS AT LESS THAN BEST CONSIDERATION -
DELEGATIONS**

To: **General Purposes Committee**

Meeting Date: **1st July 2014**

From: **Director of Finance**

Electoral division(s): **All**

Forward Plan ref: **N/A** *Key decision:* **No**

Purpose: **Under the Cabinet system, the Council had in place a number of delegations for the agreement of disposals of property assets at 'less than best' consideration, and the Committee is asked to consider a replacement system for the Committee structure.**

Decisions to authorise disposals of leases in excess of 7 years or above the value threshold below, and all freehold disposals, outside the delegation described at para 1.8 below, remain with General Purposes Committee

Recommendation: **The Committee agrees that:**

Authorisation of disposals of property assets by occupational agreements of less than 7 years to community-based and partner users on School and other County Council sites at less than best consideration shall be delegated to the Director of Finance, where the annual market rental value of the site is less than £20,000. A schedule of decisions taken will be provided to the Committee as required

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1. BACKGROUND

- 1.1 Local authorities have a fiduciary duty to obtain the 'best consideration reasonably obtainable' for the disposal of any interest in property in accordance with Section 123 of the Local Government Act 1972. Disposals include sales, and the granting of leases and licences. Although 'best consideration' is not precisely defined in the Local Government Act 1972, case law and guidance suggest that, in general terms, it is the highest market price achievable. If the Council wishes to sell at less than the highest price it can only do so with the consent of Government. The only exception to this is where it wishes to grant leases of less than 7 years and in these cases no consent is required.
- 1.2 In order to ensure that Councils have some freedom to offer discounts without the need for consent the Government has periodically issued General Disposal Consents (GDCs). GDCs delegate authority to Councils to exercise their own discretion to dispose of interests at less than full value in certain prescribed circumstances.
- 1.3 In June 1999, Policy Committee agreed the Council's current disposal policy. It was agreed that all disposals should take place at 'best consideration'. Members also expressed a willingness to consider exceptions to the policy but only where service directors and appropriate members endorsed non-financial benefits of offering a discount. Final approval of the discount required the authority of the then Committee, subsequently Cabinet.
- 1.4 On 30 July 2003 the Government published a new GDC to permit local authorities to exercise their own discretion to dispose of interests in property at up to £2m below 'best consideration'. The discretion is available if the disposal is likely to contribute to the achievement of one or more of the Local Government Act 2000 objectives namely, improvements to the economic, social and environmental well-being of its area.
- 1.5 There may be, however, circumstances where leasehold disposals to organisations would have consequential benefits to communities. In these circumstances, the Council would remain the owner of the property and have the ability to exert whatever managerial control it felt appropriate to ensure that community benefit was fully realised.
- 1.6 One such example is the grant of leases and occupational agreements for Childcare facilities, playgroups and nurseries and other organisations providing community services from school sites on school sites, where the circumstances of these groups varies from voluntary, to not-for-profit and commercial.
- 1.7 Other examples are where minor occupational agreements are needed for short periods to formalise occupation, or low value agreements to Parish Councils or other properly constituted charities and community groups, such as strips of former highway land.
- 1.8 Whilst the Constitution of the Council passes the responsibility for decisions relating to assets and property disposals to the GPC, there is a delegation of property transactions at best value, with a Capital Value of less than £500,000, or Revenue Value of £150,000, to Executive and Corporate Directors.

2. MAIN ISSUES

- 2.1 Disposals at less than best consideration can form a material proportion of the business as usual work of the Strategic Assets Team. The majority of these are grants of occupational agreements (leases, licences, tenancies at will) to community-based groups, many providing community services such as not-for-profit playgroups or nurseries on school sites.
- 2.2 The Council's policy that all disposals should be at best consideration means that low value and small scale occupational agreements at less than best consideration would otherwise need authorisation by the GPC, and as a result historically a series of delegations with Cabinet and Portfolio Holders had been established.
- 2.3 This report seeks to formalise delegations for non-freehold disposals at less than best consideration under the new Committee Structure.
- 2.4 It is recognised that disposals at less than best consideration often relate to important local or community issues, whilst being of low financial value to the Council. However, the ability to deal with such issues promptly and effectively is also important reputationally, and for good estate management, to ensure cases are dealt with in a timely manner. The proposed delegations will allow proper consideration of the relevant issues with proportionate process and governance.
- 2.5 Group Leaders and Officers should refer any case with significant political or reputational impact to GPC for decision.

3. ALIGNMENT WITH CORPORATE PRIORITIES

3.1 Developing the local economy for the benefit of all

The report above sets out the implications for this priority in 1.5, 1.6 and 1.7.

3.2 Helping people live healthy and independent lives

The report above sets out the implications for this priority in 1.5, 1.6 and 1.7.

3.3 Supporting and protecting vulnerable people

The report above sets out the implications for this priority in 1.5, 1.6 and 1.7.

4. SIGNIFICANT IMPLICATIONS

4.1 Resource Implications

There are no significant implications within this category.

4.2 Statutory, Risk and Legal Implications

There are no significant implications within this category.

4.3 Equality and Diversity Implications

There are no significant implications within this category.

4.4 Engagement and Consultation Implications

There are no significant implications within this category.

4.5 Localism and Local Member Involvement

The delegation of this level of decision making will allow the Strategic Assets Team to engage more quickly and effectively with local community and service groups in respect of requests affecting County Council assets.”

4.6 Public Health Implications

There are no significant implications within this category

Source Documents	Location
Copies of previous delegated powers and documents referred to in this report e.g the 1999 Policy Committee agreed disposal policy and The 2003 General Disposal Consents	Room 318, Shire Hall, Cambridge