

DISPOSALS POLICY

To: **COMMERCIAL AND INVESTMENTS COMMITTEE**

Meeting Date: **25th May 2018**

From: **Deputy Chief Executive & Chief Finance Officer**

Electoral division(s): **All**

Forward Plan ref: **Not applicable** *Key Decision:* **No**

Purpose: **The Committee is asked to consider the existing asset disposals policy and the proposed refinements set out in this report in order that the policy reflects the approach the Committee wishes to see adopted for any future disposals.**

Recommendation: **It is recommended that the refined asset disposal policy as set out in Appendix 2 be adopted.**

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1. BACKGROUND

- 1.1 The Council owns a plethora of property and land assets largely for operational delivery purposes. This Committee considered the disposals policy in June 2017. The minutes and notes of the meeting are set out below. In spite of this relatively recent review there have been a number of issues that have been raised during the last twelve months which culminated in a request for the Committee to revisit the process for declaring assets surplus to requirements.

2. JUNE 2017 COMMITTEE CONSIDERATION

- 2.1 As mentioned above the Committee considered this matter in June of last year. The notes and minutes in regards of the Committee's deliberations in this matter are set out below and the decision making process map is set out in Appendix 1.

14. OUTLINE DISPOSAL PROCESS FOR PROPERTY ASSETS

A report was presented highlighting some of the key issues surrounding the proposed disposal methods of property assets to CHIC.

Local authorities have power under the Local Government Act 1972 to dispose of land, but any disposal must be at "best consideration", which was usually the best price following open market or a formal 'Red Book' valuation (valuation by a Chartered Surveyor). All transactions must be carried out in an accountable and transparent way. There were exceptions to the best consideration rule, and authorities could sell for 'less than best consideration' e.g. to a community group, if it can be demonstrated that the disposals meet certain economic, social or environmental objectives, up to the value of £2M.

The County's policy had been that all sites would be offered at market value to District and Parish Councils, in advance of marketing for a disposal, except where General Purposes Committee makes alternative provisions when granting an authority to dispose. The intention was to offer sites to CHIC prior to offering them to District and Parish Councils, and then on the open market.

There were three methods of sale available, and private treaty sale with outline or full planning permission was the preferred option – valuation was more straightforward if planning permission was already factored in. It was confirmed that a large number of sales were in the pipeline at the moment. Committee approval would be required for sites over £500K. Disposals of less than £500K were delegated to the Director of Finance.

It was confirmed that disposals on the open market would follow the normal process, and the Chairman requested that officers bring back a draft policy for Member discussion at either a Committee meeting or workshop. Other Members commented that the position would depend very much on the site, and an agreed policy position would not be very helpful – there needed to be flexibility.

A Member observed that there was currently no policy position on whether disposals should seek capital or revenue returns. In terms of the impact on the impact of the Council's total financial position, on whether disposals should be regarded as a capital receipt or revenue gain, officers responded that revenue was more important to the Council, although capital receipts could be used to reduce debt. By way of example, it was noted that Castle Court was being rented for around £1M revenue per year, which was valuable income for the Council.

In response to a Member question, it was confirmed that the basis on which CHIC was engaged would be the same as any other private developer i.e. a commercial discussion. The Member commented that it was important that this arm's length company should be treated in the same way as any other company, and not given any preferential treatment. Officers stressed that this was being driven from a commercial perspective.

A Member observed that section 4 of the report (Significant Implications) indicated that some teams had not cleared the report. Officers commented that most had subsequently, but this was an overarching policy so it was difficult to identify specific impacts – this would become more relevant when the Committee considered individual cases. It was noted that all freehold disposals had to take account of the Community Right to Bid process (last sentence of 2.1.3).

It was confirmed that best consideration was the best price, but with discretion for Members to exercise discretion to make exceptions in individual cases. Councillor Jenkins proposed an amendment to recommendation (a) (additional text italicised):

(a) Agree to declare surplus land and property on a case by case basis to achieve best consideration with due regard being given to the County Council's corporate priorities

This amendment was seconded by Cllr Nethsingha.

On being put to the vote, the amendment was lost. In terms of the District and Parish Councils hearing about development sites which the Committee was considering, it was noted that the relevant Local Member would be notified prior to the Committee meeting.

Councillor Jenkins proposed that recommendation (b) be withdrawn, and this was seconded by Councillor Nethsingha. On being put to the vote, the amendment was lost.

It was resolved, by a majority, to:

a) Agree to declare surplus land and property on a case by case basis to achieve best consideration;

b) Not to offer land and property to District and Parish Councils in advance of offering to CHIC.

3. MAIN ISSUES

- 3.1 Some of the aforementioned issues have arisen as the process has focussed on operational assets and there is a perception in some areas that assets are “owned” by the services that occupy them. This report therefore gives the opportunity to re-enforce the message that all assets – be they held for operational, developmental, or investment purposes – are owned by the body corporate.
- 3.2 This approach will become more formalised with the development of a corporate landlord tenancy arrangement that will set out the relevant roles and responsibilities of the corporate landlord and those of the service tenant.
- 3.3 Another area of confusion has been which assets are within scope of the policy and in particular the disposal of land and property within the rural estates portfolio. Although the sites within the portfolio sale to This Land have been reported to the Committee on a regular basis they did not get on to the Committee’s programme through the same internal challenge process as those that operational assets follow. In many ways this is not surprising given that land used within the rural estates portfolio is unlikely to be of any other alternative use than for development purposes. However to avoid any doubt it is proposed to ensure that all assets for disposal will in the future go through the same process irrespective of whether they are currently used for operational purposes or not.
- 3.4 The other issue that has been highlighted is the role of both local councillors and local councils when considering the future of land or property that the Council has identified as being surplus to requirements. Given the financial challenges and the drive to pursue commercialism as a more optimal solution than service reductions, it is important that the presumption of maximising the value from any disposal process has to be maintained. Indeed the Council has a duty to derive best value. This does of course leave some degree of flexibility when determining what constitutes best value in overall terms and each asset will come with its own considerations in terms of covenants or such that need to be factored in to the decision.

4. PROCESS

- 4.1 The process that this Committee agreed last June is set out in Appendix 1 to this report. It is proposed to refine this process slightly but the fundamentals remain the same. It is however important to prelude the process map with a number of key principles that should support the process:
 - All assets are owned by the body corporate;
 - The Council is therefore a corporate landlord for any service using an asset;
 - The corporate landlord has a right to terminate that arrangement if it is in the organisation’s best interests;
 - All property and land disposals will follow this process (this will include all rural estate land and property holdings).
 - This Land will have first refusal on disposals on the understanding that terms of sale do not consist of preferential treatment compared to any other developer.

- 4.2 Having considered the issues that have been summarised in this report an amended process has been developed and is set out for the Committee's consideration in Appendix 2 of this report.

5. ALIGNMENT WITH CORPORATE PRIORITIES

5.1 Developing the local economy for the benefit of all

There are no significant implications for this priority arising directly from the changes proposed in this report.

5.2 Helping people live healthy and independent lives

There are no significant implications for this priority arising directly from the changes proposed in this report.

5.3 Supporting and protecting vulnerable people

There are no significant implications for this priority arising directly from the changes proposed in this report.

6. SIGNIFICANT IMPLICATIONS

Implications	Team	Name of Officer Consulted
Resource	Finance	Tom Kelly
Statutory, Legal and Risk	Legal	-
Equality and Diversity	Author	Chris Malyon
Engagement and Consultation	Communications	Christine Birchall
Localism and Local Member Involvement	Author	Chris Malyon
Public Health	Public Health	Val Thomas

6.1 Resource Implications

There are no significant implications within this category.

6.2 Statutory, Risk and Legal Implications

There are no significant implications within this category.

6.3 Equality and Diversity Implications

There are no significant implications within this category.

6.4 Engagement and Consultation Implications

There are no significant implications within this category.

6.5 Localism and Local Member Involvement

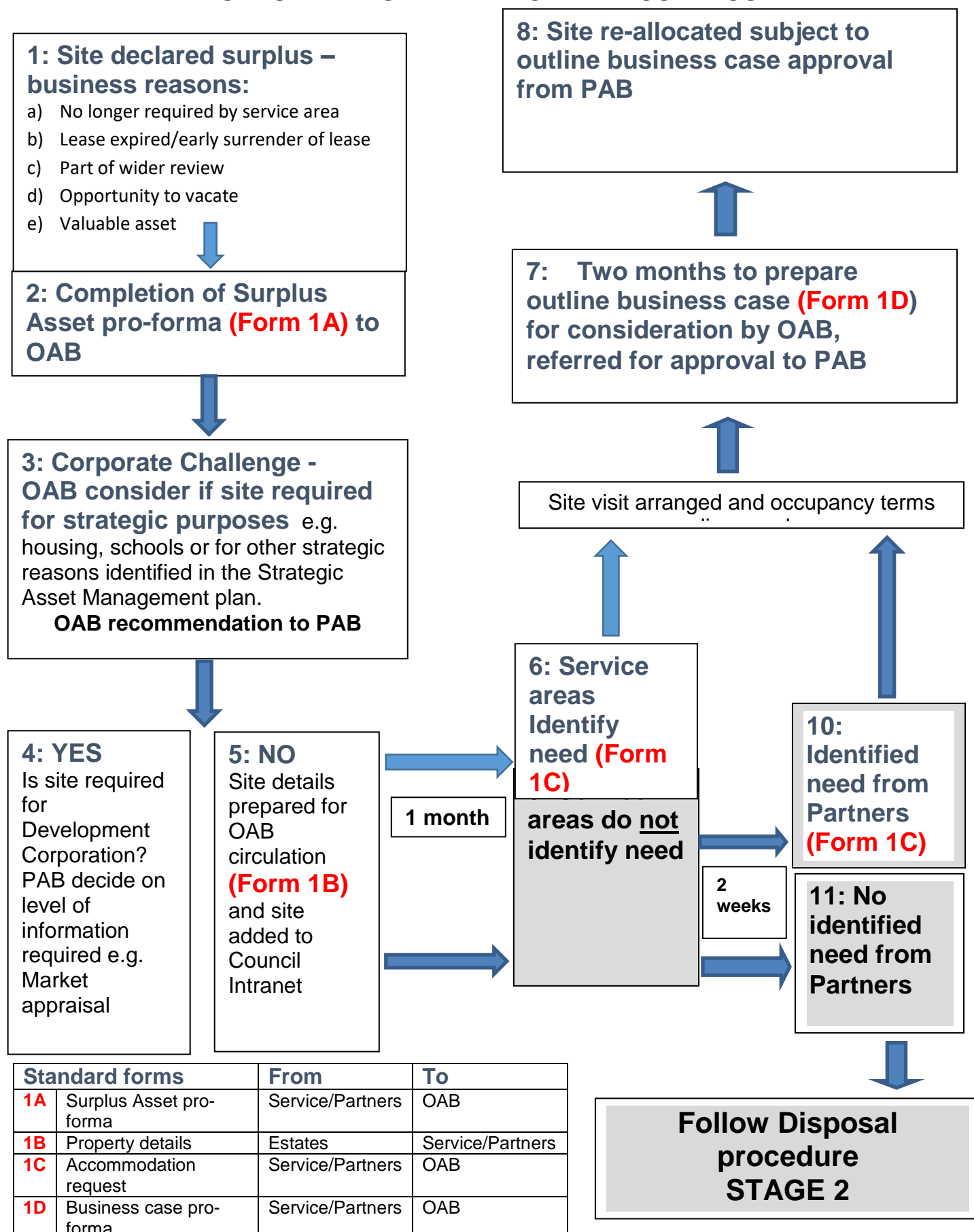
The Council has a Member Engagement Protocol which covers Member involvement in disposals in their area.

6.6 Public Health Implications

There are no significant implications within this category.

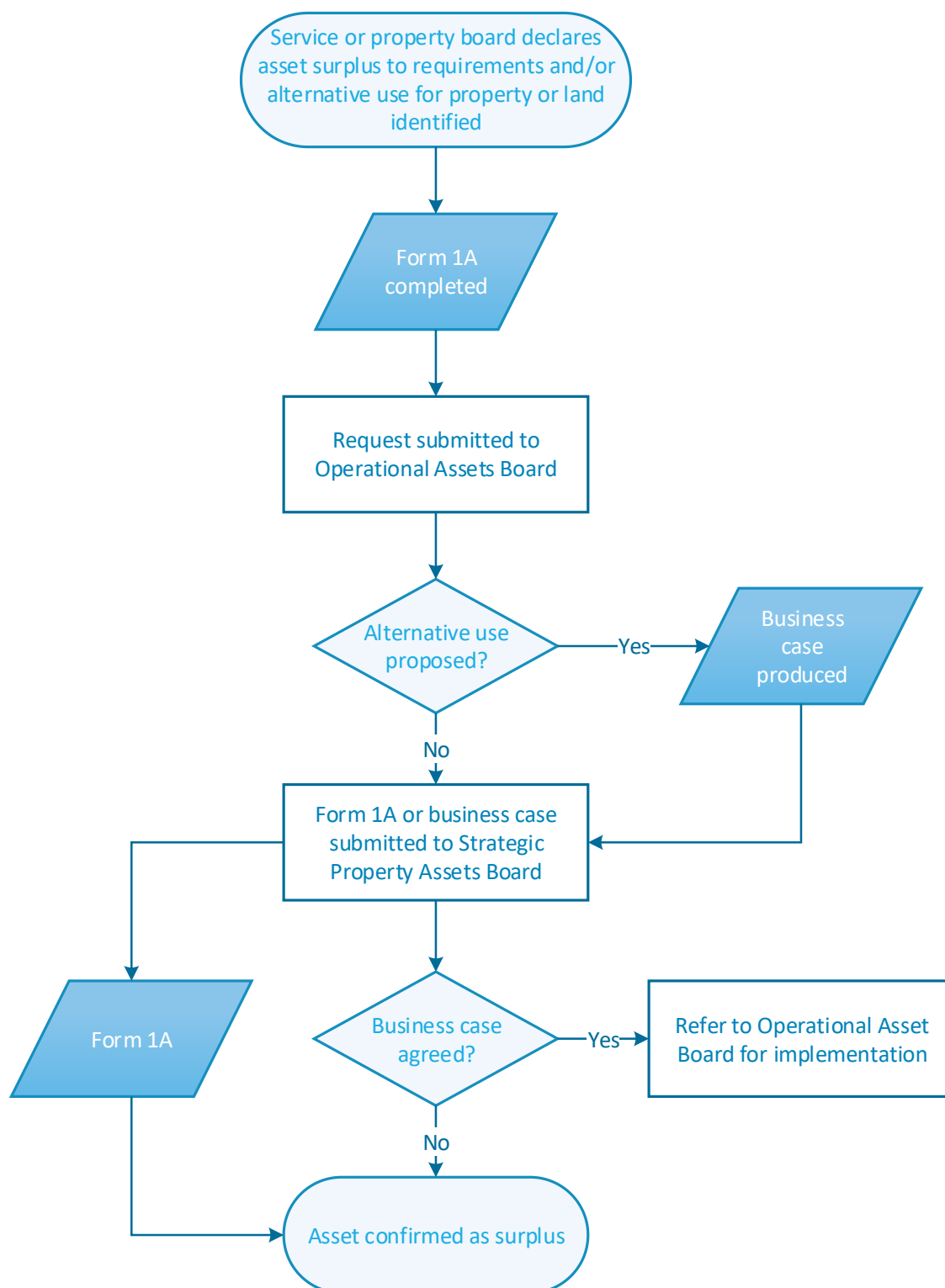
Previous process:

STAGE 1: PROPERTY DECLARED SURPLUS



Proposed processes:

Process To Confirm An Asset As Surplus



Process To Agree Disposal Of A Surplus Asset

