

Cambridgeshire County Council

Property and Land Disposal Policy

Appendix 1

March 2026

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1.0 Introduction.

The council has not previously operated within a single written policy document regarding property and land disposals; a review of the existing disposal principles has previously been included within the body of written committee papers and reviewed in 2014, 2017 and 2018. The existing principles and processes follow the council's constitution regarding delegations and adheres to the best consideration legislative requirement and fully complies with all required regulatory requirements, however this is not currently captured within one policy document.

This new policy is intended to provide a more efficient, expedient and evidence led process in the way disposals are approved whilst adhering to statutory and legislative requirements and acknowledging there will be further guidance and requirements introduced which we will be required to adhere to, as we approach Local Government Reorganisation.

This policy supports and contributes to Cambridgeshire County Councils (the council) three corporate strategic ambitions and their twelve priorities detailed within the Strategic Framework.

- **Support a green and sustainable county:** Low carbon council, tackling climate risks, restoring nature, and a circular economy.
- **Enable full healthy lives for all:** Independent Living, Active living, Eating well, and good health and wellbeing.
- **Ensure fairness and opportunities wherever we can:** The best start in life for children and young people, well connected, financial security and jobs for the future.

Delivery of public services and the ownership of property assets are intrinsically linked. The main reasons for the Council to hold property are, for the purpose of direct service delivery, to support service delivery, and to support the Councils wider policy objectives and contribute to the ambitions within the Strategic Framework.

Whilst the Councils Constitution delegates a broad range of powers to dispose of land and property it is important that a coordinated and transparent policy approach is applied to disposals in line with statute and government policy and be adopted by all stakeholders and partners across the council.

To enable a consistent, transparent and professional approach in how we identify surplus land and property, this policy complements the adopted Land and Property Strategy 2024-29 first approved at committee in March 2024 and subsequently refreshed and approved at Assets and Procurement Committee in January 2026, which sets a framework for the safe, effective, efficient, and environmentally sustainable management of the council's land and property assets, enabling a structured but flexible response to service needs and priorities and compliance with legislation and best practice.

Whilst the primary focus of this document is to provide key policy guidance and procedures for officers, elected members, businesses and the general public, it is important to note each individual case will be assessed on its own merits, and there may be on occasions other exceptional circumstances when officers may need to depart from the procedure set out in the policy depending upon the circumstances of a disposal, we will ensure that any departure will still align with the constitutional requirements of the council if thought to be the most suitable way forward, and will be approved in line with the delegations within the council constitution.

The Council's land and property portfolio is made up of a range of asset types comprising a variety of land and buildings which support the Council's delivery of services and the achievement of key outcomes within the Strategic Framework.

These assets can broadly be broken down into the following four categories:

- Operational Estate: To support the delivery of council services.
- Strategic Estate: To acquire and hold property and land to support and deliver economic development and future place shaping.
- Commercial Estate: To retain property as part of a diversified investment portfolio to provide a sustainable revenue income.
- Community Estate: Taking a place-based approach to support community resilience and improved resident outcomes.

The Council operates a Corporate Landlord model for managing property assets, with responsibility transferred from individual service areas to a central corporate function. The disposal policy applies to all stakeholders and partners across the council but is driven and delivered by the councils Corporate Landlord.

A key responsibility of the Corporate Landlord model is the disposal of property assets that are no longer required and/or meet the operational and strategic requirements of the council. The constitution already ensures the council manage its land and property disposals in accordance with regulations. This policy will assist to operationalise these requirements and give clear understanding and transparency to all stakeholders.

As part of its medium-term financial plan (MTFP) and wider budget management processes, the council requires a targeted capital receipts programme that will support, reduce and replace, where possible, council borrowing requirements. This programme is reviewed by property and finance colleagues monthly.

The Delivery Action Plan within the Land and Property Strategy 2024-29 refreshed in January 2026 includes an action to produce a Council Land and Property Disposal Policy.

2.0 Scope and Aims of Policy

This policy will relate to all general fund property and land owned or controlled by the council, which applies to all operational property assets, including small parcels of surplus highway land, rural county farm estate land and property, commercial investment portfolio, maintained schools, and major land development opportunities.

The principles of this policy include the County Farm Estate and the Commercial Investment Portfolio, as these are predominantly retained for financial income and commercial and economic return the criteria regarding asset challenge of both these portfolios will focus on the financial return of the investment and economic outcomes in their recommendations and decision making.

Speculative development enquiries received from third parties such as commercial developers, occupiers and adjoining landowners will be encouraged and dealt with on a case-by-case basis based on their merits with cross council contributions invited towards assessing their suitability prior to obtaining formal approval through the delegation requirements of the council constitution. These are more common within our land holding assets.

The main aims of this policy are:

- To set out procedures that council officers will follow when dealing with disposals, to ensure they are dealt with in a consistent, evidence led and transparent way.
- All actions recommended within this disposal policy document will strive to promote the disposal of assets in a way that positively supports the delivery of the council's Strategic Framework.
- To enable actual and latent capital value tied up in potentially surplus assets to be realised.
- To eliminate / minimise future liabilities through the disposal of surplus assets.
- To maximise the proceeds or land use benefit from disposals for the benefit of the council and its residents.

3.0 Definitions

Disposal: For the purposes of this policy, a disposal of property is a disposal if it consists of the transfer of the freehold interest or the surrender, assignment of a leasehold interest held and owned by the council. This definition does not cover land owned by another party that the Council occupies under a market rent lease. This

policy is only intended for disposals and potential development relating to Council owned land and property assets.

Common Land: land subject to rights enjoyed by one or more persons to take or use part of a piece of land or of the produce of a piece of land which is owned by someone else – these rights are referred to as ‘rights of common’. Those entitled to exercise such rights were called commoners.

Community Asset Transfer: The transfer of an interest in property and or land from the council to a community group, or Town or Parish Council to secure community benefits.

Freehold: means to own a property, including the land it’s built on, with no fixed time limit.

Leasehold: is a property that you own for a fixed length of time. The land that the property sits on is usually owned by the freeholder.

One Public Estate (OPE): is a national programme that supports locally led partnerships of public sector bodies to collaborate around their public service delivery strategies and estate needs. The programme is jointly managed by Cabinet Office and the Local Government Association. The aim of the programme is to help partners to repurpose surplus public estate for housing, regeneration, and other locally determined uses.

Open Space: is defined in the Town and Country Planning Act 1990 as any land ‘laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground’. It is generally considered to be a valuable community resource, to be enjoyed by the wider community and there will be a general presumption against the disposal of these assets.

Royal Institute of Chartered Surveyors (RICS): Is the official body of property professionals that issues and monitor the standards of a chartered surveyor. All RICS accredited surveyors must pass a thorough competence process before they receive their chartered status.

Cambridgeshire County Council Land & Property Strategy (2024-29) refreshed January 2026: is a strategic document of intent and a strategic asset management strategic framework. It specifies how the Council’s ambitions are to be converted into asset management objectives and describes the approach for achieving those objectives.

Asset Challenge: A 5-year cycle to challenge the use of every asset within the portfolio from a property and service delivery perspective.

4.0 Legislative and Regulatory context.

4.1 Best Consideration Section 123 of Local Government Act 1972

A Local Authority may dispose of land it owns as it wishes; however, any disposal is subject to compliance with certain statutory provisions. Section 123 Local Government Act 1972 ('s123') imposes the overriding duty to obtain the best consideration that can reasonably be obtained for relevant disposals of land and property.

For the purposes of Section 123, a disposal includes the sale of a freehold, granting a lease, assigning any unexpired term of a lease and the grant of an easement. It may also extend to the grant of an option to purchase a freehold or to take a lease. Section 123 does not apply to the grant of a short-term tenancy of less than 7 years or an assignment of an existing term with no more than 7 years to run.

The Local Government Act 1972 general disposal consent (England) 2003 provides a mechanism for Local Authorities to proceed with disposals at an undervalue, without the need for specific consent from the Secretary of State, subject to conditions. Examples may include those where the local authority considers that such disposal will help to secure the promotion or improvement of the economic, social or environmental well-being of its area, although this should not be considered an overriding factor.

The general consent is subject to a condition that the undervalue does not exceed £2 million. The undervalue is calculated by assessing the difference between the market value of the land or property (known as the unrestricted value) and the actual consideration received. If the undervalue exceeds £2 million or the authority considers for any other reason that the general consent cannot be applied to the disposal, then specific consent from the Secretary of State must be obtained for the disposal to proceed.

The full extract from the Local Government Act 1972 can be viewed via:

<https://www.legislation.gov.uk/ukpga/1972/70/section/123>

RICS (2011) Local Authority Asset Management 07: Disposal of Land at Less than Best Consideration

The Royal Institute of Chartered Surveyors (RICS) notes that disposals at less than best consideration may only be justified if they involve indirect benefits and they cannot be considered in assessing best consideration. Such disposals would need to demonstrate how they would maximise value for money in pursuit of wider strategic objectives and outcomes. There are many instances where this may arise, provided always that the local authority has the powers to seek the benefits involved.

The RICS also notes that if a local authority is to meet its legal obligations (and avoid legal challenge), it must demonstrate that a consistent, transparent and well-structured approach has been taken, and that value for money will be obtained.

The RICS therefore recommends that a business case should be prepared and that a clear audit trail in decision-making is held. The RICS helpfully outlines key essential information that should be contained in this business case,

- The best consideration that would otherwise be received;
- The consideration likely to be received on the proposed particular terms and conditions
- Any direct and indirect benefits associated with the disposal in monetary terms where possible.

The RICS also advises that a local authority should also note in its decision report an assessment of the likely on-going holding and opportunity costs and any benefits arising from the retention of the assets so that a balanced view about the costs and benefits to the authority are noted.

It recommends that the approach must be commensurate to the complexity of the case, and that the assessments undertaken should be both quantitative and qualitative.

Best practice to demonstrate how the Council achieves best consideration includes (but is not limited to):

- Establish the legal status of the land in question and how it was acquired and purposes for which it is held.
- Satisfy itself that the land is held under powers that permit the land to be disposed of under the LGA 1972. Land that consists of, or forms part of, a common and is held or managed by the local authority in accordance with a local Act cannot be disposed of under section 233(2) of the TCPA 1990 without the Secretary of State's consent.
- Obtain the views of a RICS professionally qualified valuer as to the likely amount of any undervalue, if applicable.
- Ensure that any legal advice that is obtained on the disposal is considered, followed or both. Any decision to take a lower price than the one offered must be capable of justification.
- Formally document the powers upon which it relied when making a decision to dispose of land.
- Disposals must comply with the Subsidy Control Act 2022.
- Demonstrate that the council has achieved the best consideration possible by: (i) marketing the property; (ii) obtaining an appropriate independent valuation; or (iii) both of the above.

This process shall apply to all disposals of a less than best consideration and by all means of disposal identified and irrespective of whether the authority considers it necessary to obtain the Secretary of State's consent.

The agreement to proceed with a disposal at less than best consideration is explicitly recorded and the following are informed of the intention, the property team, Asset Programme Board, Executive Director Finance and Resources and Chair and Vice

Chair of the A&P Committee and the Committee itself dependant on the constitutional delegations.

It also recommends that the local authority's legal and audit teams be consulted in advance.

The RICS also highlights that Subsidy Control implications are investigated and complied with, as this may impact on a local authority's ability to dispose of an asset to a particular organisation.

4.2 Open Spaces

Open Space: Section 10 of the Open Spaces Act 1906 states: "A local authority who have acquired any estate or interest or control over any open space or burial ground under this Act shall, subject to any conditions under which the estate, interest or control was acquired:

(a) hold and administer the open space or burial ground in trust to allow, and with a view to, the enjoyment thereof by the public as an open space within the meaning of this Act and under proper control and regulation and for no other purpose; and

(b) maintain and keep the open space or burial ground in a good and decent state..."

4.3 Other general legislative considerations.

Other legislative considerations, although not exhaustive, for consideration when disposing of an asset are included below for reference to note, all legislative requirements within each disposal will be considered by the legal team as part of the contractual process of the disposal.

The provisions regarding the disposal of Common Land require consent from the Secretary of State and replacement land to be made available where the area of land to be sold exceeds 200m².

European Commission Communication on State Aid elements in sales of land and buildings by public authorities (97/C 209/03) – also known as the 'State Aid Rules'.

Procurement Act 2023

Government Guidance on the Disposal of Local Authority Asset 2016

The Local Government Transparency Code Subsidy Control Act 2022

Localism Act 2011 and the Community Right to Challenge Regulations 2012

RICS Valuation – Professional Standards 2019 UK VPGA 17 – Local authority disposal for less than best consideration. (updated Jan 2019)

Proposals for disposal of assets used by the public [e.g. Libraries] will be subject to Equality Impact Assessments and potential mitigation measures under the Equalities Act 2010 and detailed impact assessments will be required for each individual disposal proposal.

Bribery Act 2010 and Proceeds of Crime Act 2002

Section 117 of the Charities Act 2011 provides that the Council has additional responsibilities which arise from its role as trustee of charitable lands and will be subject to the disposal requirements set out in the Charities Act 2011.

The Council Constitution.

Local Government Reorganisation requirements once confirmed.

Crichel Rules - In 2015 the Department for Communities and Local Government updated a circular entitled "Compulsory Purchase and the Crichel Down Rules" which prescribed the way in which all Government departments and executive agencies that are subject to a power of direction from a Minister must manage the disposal of land previously acquired using compulsory powers. Local authorities, which are not subject to a ministerial power of direction, are not subject to such a prescription but are still recommended to also follow the rules.

The General Rule of these guidelines states that "where a department wishes to dispose of land to which the Rules apply, former owners will, as a general rule, be given the first opportunity to repurchase the land previously in their ownership, provided that its character has not materially changed since acquisition." Disposals to former owners under these arrangements will be at current market value.

The disposal of property assets used for mainstream education purposes is Governed by the School Standards and Framework Act 1998 and subsequent legislation. In September 2016 the Commercial & Investments Committee of the council approved a specific disposal strategy for surplus freehold land on Academy school sites and this remains the strategy we comply with for the disposal of academy school land which is aligned to the legislation mentioned.

5.0 Policy Approach and Process

5.1 Asset Challenge

The council owns many properties ranging in type and size with an operational portfolio varying from offices, libraries, highways depots and land through to schools to waste recycling sites; the largest local authority rural estate in the country; and an investment portfolio which varies from student accommodation to a cinema complex.

All land and property within the portfolio is subject to an Asset Challenge review on a five-year rolling programme, this process is detailed within the Land and Property Strategy 2024-29 document, and it evaluates the strategic purpose for holding land and property and highlights the opportunities to repurpose, redevelop or dispose of an asset to better deliver objectives. considering financial value alongside operational, environmental, social, economic and community values. The process may include assets that are no longer needed by the Council, are unaffordable to repair, or that are unlikely to be required for any future use. Alternatively, the Council may consider assets that provide a benefit that is disproportionate to the opportunity cost of capital tied up in the asset.

As a result of the asset challenge process and the collection of evidential data which includes condition, utilisation, running costs, valuation, strategic impact, service use suitability and sufficiency, local plan opportunity, Local Government Reorganisation, and potential to add value an asset may be deemed suitable for disposal if one or more of the following principles apply:

- The assets no longer make a positive contribution to the delivery of council services nor align with the Strategic Framework of the council.
- The revenue and capital demands to maintain the asset far outweigh any income, financial or policy benefits.
- It has no potential for future internal strategic regeneration and/or redevelopment purposes but may offer other external regeneration opportunities.
- An alternative site can provide and deliver a more cost-effective and efficient service.
- The asset does not align with or contribute to current or emerging council strategies.
- The property or land is surplus to operational requirements and if disposed of would contribute to the council's financial sustainability.
- No potential to share use with partners (One Public Estate/Community).
- The asset does not contribute positively towards the Council's commitments to a net zero carbon energy efficient estate.
- The property is of a poor condition, has suitability issues and/or environmental issues which do not meet service and legislative standards, compliance and/or health and safety and has excessive running costs.

- Better public and social value can be obtained by transfer of the asset to another public or community body.
- A service area informs the Estates team of their intention to vacate the building.
- The building is underutilised, and/or large areas unused.
- Strategic Development may require the need for a disposal in certain circumstances such as where there would be a beneficial effect on the Council's surrounding assets, a disposal would reduce revenue cost or resources needed including where the long-term cost of management and maintenance of the asset exceeds its value, and where there is an opportunity for a place-based regeneration project.

The Asset Review process is one of five workstreams which report into the Asset Programme Board and is responsible for the Asset Challenge to all our property assets alongside service area reviews, one possible recommendation from this process to the Asset Programme Board may be to dispose of the asset.

It should be noted that some land or property assets which meet the surplus or underperforming criteria may still be held by the council with the aim of enabling long term development or future infrastructure projects, as part of wider strategic regeneration or place shaping. Further, some property disposal may be compulsory transfers driven by statute rather than the identification of surplus or underperforming assets.

The Service Director Property is responsible for recommending that a property is surplus for requirements having taken account of the principles of good asset management through the asset challenge process. Once an asset has been confirmed as surplus and a prospect for disposal via the Asset Challenge process, the property will be logged on the surplus land register for further consideration, and this will be reported to the Asset Programme Board.

All decisions made will be recorded and contained within the property file within the concerto system to ensure an audited decision-making process.

The Asset Challenge evaluation process is highlighted below, the visual is taken from the Land and Property Strategy 2024-29.

Strategic Purpose	Opportunities and Risks	Performance Appraisal	Option Appraisal	Pre Implementation Consultation	Outcome
Why does the council currently hold the asset?	Are there any opportunities that could be exploited?	What financial and non-financial outcomes have been delivered?	Balance performance, opportunities, and risk.	Internal stakeholder consultation	Recommendations presented in accordance with agreed governance arrangements.
What is its strategic purpose?	Are there any known barriers to exploiting these opportunities?	Can non-financial benefits be quantified and or are they qualitative? Suitability, Sufficiency, Condition.	What options are available?	Undertake Consultation with external stakeholders and partners as appropriate	Either <ul style="list-style-type: none"> • Retain, • Redevelop and invest, or • Release.
How do we measure the assets performance against its purpose?	Are there any risks that could be faced?	What are the operating and management costs? What is the utilisation rate?	What are the costs and benefits of these options?		
Is this financial, non-financial or both?	How could the financial and carbon performance be significantly increased through minor investment or better management	Assess social value it is offering and is it meeting the needs of the service area.	Do any options carry increased risk?		
How does the asset contribute to the council vision and ambitions and service delivery?	Commercial opportunities with diversification and innovation	Carbon Net zero baseline position	Is there an alternative strategic purpose		
	What is the decarbonisation baseline costs	How does the asset comply with appropriate statutory compliance and safety requirements.	What additional property needs do service areas have.		

5.2 The Governance process to declare an asset surplus:

In line with the Council's Land and Property Strategy 2024-29, the council's Service Director of Property will advise on all operational property assets identified through the Asset Challenge process, the Asset Programme Board will endorse this advice and is required to approve whether the asset will be declared as surplus to current operational requirements by either property or the residing service area.

The Council recognises that good governance is a key component of this policy, Appendix 4 flow charts show the process of declaring an asset surplus and the route to disposal.

Once the asset is identified and recommended as surplus through the Asset Challenge process, the various stages, the actions required and responsible persons, are also detailed in a little more detail below.

Stage 1:

Once confirmed as potentially surplus, the internal land/property is registered within concerto, the council's legal department should be engaged at an early stage to produce a report on title for the asset to be disposed of, to include any rights or obligations which might affect it. Consideration should also be given as to whether there is an obligation to offer the land back to a former owner under the Crichel Down Rules or whether the property has been the subject of funding in the past, which requires the repayment of grant monies.

The title report may highlight any restrictions in relation to future use or disposal routes for the asset. These will need to be considered and evaluated prior to proceeding further with any disposal.

The policy process requires an operational built asset which has been identified through the asset challenge process to be initially considered by other internal service areas within the council to establish if there is another internal use for the asset and a need for council service area delivery. A form completed by property detailing the asset and any conditions from the legal title searches is circulated to Asset Programme Board, where service area members of the board will be given the opportunity to express an interest in the asset from their service area. They will be given 14 days to express an interest.

If there is an expression of interest, the service area will be requested to provide a business case which has the approval of the relevant Executive Director to the Asset Programme Board for consideration. If the board approves and supports the initial business case, then the property will not be declared surplus and the process of realising the business case and ultimately transferring the use to the service area aligned to the business plan will be facilitated between the corporate landlord and service area.

If there is no interest to use internally or the expression of interest presented is declined by the board, the asset will then be declared surplus to council internal use. The service area will be informed of the decision and the reasons why.

The next stage once declared surplus internally and prior to marketing the asset openly is to seek an expression of interest from This Land Ltd. If they do express an interest an independent valuation of the site is commissioned. If This Land Ltd do require to purchase the asset/site it will be done so at full market value as a special negotiated purchase and aligned to the independent RICS regulated Valuation process.

If we have no expression of interest from This Land Ltd, we will then contact and seek any expression of interests from the local district council.

If we receive an expression of interest from the local district council, property services will negotiate with them and seek an independent valuation of the site with the option to either negotiate a sale as a special purchaser or alternatively could agree to market openly with the local district council a bidder alongside open market bids, with either option we would need to meet and be assured of best consideration.

There will be guidance and legislative requirements within the Local Government Reorganisation process regarding disposals of land and property prior to vesting day for the new unitary councils which we will duly adhere to but may not be fully aligned with this policy and will take precedent.

If we have no expression of interests, we also need to consider the potential disposal of a surplus asset via a Community Asset Transfer, this may include:

- Supporting the third-party organisation to continue delivery of a key activity for residents when the transfer will allow the organisation to bid for and secure funds and/or to support a more sustainable business model.
- Supporting the third-party organisation to deliver a specific service in line with the council's objectives where the service can best be provided through a council-owned asset.
- Protecting a heritage or otherwise important council asset that may fall into disrepair if stewardship is not provided by a third sector organisation.
- When a Town Parish/Council or third-party organisation is best placed to provide an alternative delivery model for an existing council service from an existing council-owned asset.

If the asset is suitable for Community Asset Transfer, then the Community Asset Transfer process should be considered, this is covered in more detail within Appendix 3 of this policy, which provides a guidance and process for the council to follow to ensure a consistent process is followed.

Stage 2

If there are no expression of interest from either Internal council service areas, This Land Ltd, district councils, and the asset is not suitable to be considered for a Community Asset Transfer then the council will prepare to market the asset for disposal.

Stage 3

The Service Director Property will agree a marketing strategy for the asset, which is covered in more detail within the following items.

5.3 Considerations before marketing

The disposal of land classified as 'open space', under the Town and Country Planning Act 1990, must be formally advertised in the press in accordance with s123 of the Local Government Act 1972. Examples of public open spaces include public gardens and recreational land. Additionally, before any disposal proceeds, public representations must be considered, as required by the Localism Act.

The council will where appropriate carry out pre-marketing technical investigations and considerations where the methods may secure added value:

- **Planning Benefit:** With a view to optimising sale proceeds, the planning potential of sites and premises will be explored by estates officers prior to marketing. If deemed cost effective the council will consider securing outline

planning permission for an added value development. By the council securing planning permission it reduces the risk and uncertainty for a potential purchaser and should provide an uplift in value above the existing use value.

- Contamination: If it is considered that there is a risk that the site is contaminated, a desk top evaluation should be carried out by external consultants prior to marketing. Subject to the findings a ground investigation survey warranted to future owners may be advisable.
- Development Considerations: With reference to development opportunities, we will undertake standard enquiries with respect to Highways, Services and Utilities, Lead Local Flood Authority and Environmental Agency to determine capacity and any significant issues. When dealing with sites which offer any possibility of long-term development opportunities, however remote, it is standard practice to protect the council's interests by placing an overage clause in the sale contract combined with a user restriction.
- Ransom Strip: A ransom strip is an example of where a parcel of land in isolation may have limited to no value. However, by ransoming another parcel or parcels of land the value of the ransom could be worth excessively more up to half of the development value of the whole. Ransom strips mainly relate to access arrangements.

5.4 Valuations

The valuation of sites will be undertaken by an accredited valuer under the RICS Regulated Valuation Scheme. Where a disposal is in respect of a major or complex site, additional independent valuation advice may also be sought. Independent advice is to provide a safeguard for the propriety of the Council's transaction, particularly if a situation arises where there has not been an open, competitive process - for example transacting with a special purchaser. The advice may include assistance with negotiations with the prospective purchaser.

Independent valuations will always be obtained for any sale which has not been openly marketed (e.g. to a Special Purchaser) where the in-house team estimate the Market Value exceeds £10,000. A Special Purchaser may include cases involving ransom strips, marriage value or sitting tenant. The disposal price in this instance will be based on the average of two independent valuations (or three if the first two differ by 10% or more). Sales must be completed within six months. For assets valued up to £10,000 the Council's team of RICS Registered Valuers, may choose to undertake valuations internally.

5.5 Method and Means of Disposal

The Head of Estates following discussions with the selling agent, will recommend the most appropriate method of disposal and a marketing strategy e.g. Auction, Private Treaty etc., for approval by the Service Director Property. The method of disposal will be assessed and determined on a case-by-case basis. All issues relating to the land or property, including best consideration, best value, sustainability, social, environmental, and economic benefit and legal issues and agreements, will need to be considered when determining the most appropriate method of disposal.

Where appropriate, the Council will give due consideration as to whether it will wish to dispose of a freehold interest of an asset or alternatively a long lease whereby it may be able to retain some long-term control or potential income.

Where the disposal is to be by way of a long lease, the Service Director Finance and Procurement will be consulted to assess the implications regarding VAT, Capital Controls and Treasury Management.

The disposal of land and property can be undertaken in a number of ways and the most appropriate sales mechanism for the asset will be used taking each asset on its own merits. The Council will usually use but does not restrict itself to one of the main means to dispose of land shown below. The Council's preferred and default method is to expose to the Open Market Informal Tender.

The methods of sale generally adopted are set out below, but these are not exhaustive, and alternative methods which are not listed below may be used to deal with unusual disposals.

All land and property assets which are released for disposal will be fully marketed except for disposals to nominated and special purchasers, which will be sold by private treaty negotiation.

The following modes of sale should be considered but is not restricted to:

- Private Treaty:

Private treaty is where a sale is negotiated directly with a third party and are usually by exception. It can be with or without marketing and is usually only suitable where a special purchaser is identified. This method should not be used unless there is either a special purchaser or there is a wider economic, social or environmental benefit to do so, as all surplus assets should be offered for sale via the open market to ensure transparency and obtain best consideration.

- **Public Auction:**

This is perhaps the most simple and effective way of conducting a sale for certain classes of property which have perhaps failed to sell under other methods or where there is an unknown or uncertain market. A sale will be publicly advertised in advance with a reserve price agreed. Providing the reserve price is achieved then the property will be sold to the highest bidder who will exchange contracts and agree a completion date on the day of the auction (usually 28 days). If the reserve is not reached the property will be withdrawn.

- **Open Market Formal Tender:**

A sale of land by a process of public advertisement and submission of tenders by a given date in accordance with a strict procedure. The Council creates a binding legal agreement upon the acceptance of a tender. Once the closing date has passed and offers submitted, there is no option to negotiate and once the Council accepts a formal tender it becomes a binding contract. This approach requires detailed preparation as the asset is marketed with a finalised contract, which becomes binding upon offer acceptance, removing any flexibility to negotiate.

- **Open Market Informal Tender:**

A sale of land after a public advertisement that requests informal offers or bids that meet a given specification of set objectives. The Council may then negotiate further or request more detailed terms with one or more individuals submitting the most advantageous bid or bids. A binding legal agreement is not created until the exchange of contracts between the authority and the chosen bidder. Like formal tender but offers are subject to contract and do not constitute a binding contract upon acceptance. This method enables flexibility post-closing date if required and enables the ability for the Council to seek best and final offers where bids are considered too close to decide a clear preferred purchaser. The Council can invite unconditional and/or conditional offers, under the informal tender process. The main differences being: Unconditional offers invite the price which the party is willing to pay for the land/property as it stands without any further investigation. Conditional offers invite the price which the party is willing to pay subject to conditions. Such conditions may include obtaining full planning permission or undertaking intrusive ground investigations prior to completing the purchase. The evaluation scoring criteria is set before marketing and can be focussed on price and/or social value to ensure all benefits can be rewarded through the evaluation of bids.

- **Exchange of Land:**

A transaction involving council owned land in exchange with another landowner. The

land acquired by the council will meet at least one of its corporate ambitions and be commercially equal in value to the land exchange, either from the value of land or additional payment at exchange.

Independent valuations are not legally required for open market disposals; however, the appointed agent must provide a market value opinion in a marketing report as a guide before the marketing begins.

To ensure that an open market disposal receives wide exposure, external support from property agents is usually sought. The Council does not benefit from marketing presence on a regional, national or even international basis in the same way that a regional, national or international agent does. Property agents have the benefit of a wider exposure to the market and often retain a database of potentially interested parties whom they can introduce to an asset in addition to general marketing. Local, national and international agents all bring individual benefits to marketing an asset and these merits will be considered in the context of the asset being offered for sale, with the estate team ensuring the agent appointed is most appropriate in terms of market presence and knowledge for the asset being sold and not simply the cheapest quote presented.

The council will comply with the council procurement rules in engaging a selling agent. The council will always endeavour to ensure that its internal legal and surveyor's costs are recovered as part of a disposal. The Council's Contract Procurement Rules and Procurement Act 2023 and all associated national and international law must be complied with when procuring external support, with advice being taken from the Council's Head of Procurement and the monitoring officer where there is uncertainty.

Compulsory Purchase Order, another statutory body with the benefit of Compulsory Purchase Powers may exercise or threatens to exercise those powers over land by this Council and we need to be aware of this potential.

5.6 Marketing Particulars

Once we have procured, the appointed selling and letting agent will receive a schedule of required services, including valuation and marketing advice, agreement on a marketing strategy, sales particulars, erection of sale boards, and a proposed timetable from the council prior to marketing.

Marketing schedules will be agreed with the agent in advance. Use of online platforms for marketing is required, including the agent's own websites, but a

nationally recognised property marketing website must also be used for all disposals. All disposals will also be marketed on the council's website.

If only one offer is received after closure of marketing, the agent will report whether the offer represents best consideration aligned to s123 requirements, giving the reasons for their recommendation. The sale will proceed in line with the Council's scheme of delegation.

5.7 Localism Act 2011: Community Right to Bid and Assets of Community Value.

Under the Localism Act 2011, the Community Right to Bid and Assets of Community Value provisions enable local communities to protect buildings and land that are important to them. For all freehold disposals, the Council will consider the Community Right to Bid process if the asset is registered as an Asset of Community Value by the relevant District or Unitary Local Authority, in accordance with the Localism Act 2011. If the property is registered as an Asset of Community Value the council who is selling the asset is required to inform the council who has administered and registered the Asset of Community, who will then notify the qualifying community group and will enforce the prescribed moratorium timescale to allow the community group to register their interest and bid aligned to the regulations. This process does not preclude the selling council from marketing the site for disposal however it does restrict the timescales within which contracts can be exchanged with another party other than the qualifying community group.

5.8 Disposal Terms for consideration

The Council does not have a fixed policy on whether disposals should be prioritised for capital receipts (freehold sales) or revenue returns (leasehold disposals). Any preference will be recommended when properties are declared surplus.

Each site will be evaluated individually to determine potential alternative uses and whether best consideration is achievable through sale or lease.

Wherever possible, the Council will endeavour to keep land and property disposals simple and cost effective for both parties.

For certain types of disposals, it may be prudent for the Council to impose terms which are considered necessary to protect the Council's interests. Such terms may include:

- Development Obligations – The Council generally will only dispose of strategic development land for identified development proposals. Where appropriate, the Council will impose obligations to commence and complete the proposed

development within a reasonable timescale backed up with an option for the Council to re purchase the land.

- Development Agreements – Development agreements will be used for the disposal of strategic development sites where the principal aim of the disposal is to facilitate regeneration benefits from a particular scheme. These usually require planning support and advice to promote the site through the local plan process. These will have positive obligations on the promoter to pursue planning where the council has deemed it high risk or costly for the council to lead the promotion.
- Overage and claw back – Where appropriate, disposals will include provisions for securing a share of future enhanced values using overage and claw back clauses.
- Outline planning consent – Assessing whether an application for a change of planning use might have the potential to increase the value of the surplus land/property. If the change of use is obtained by the Council, it removes an element of risk and uncertainty for potential buyers, which may lead to an increase in the purchase price they are willing to pay.
- Prior to the marketing of land and property, the Council may seek planning permissions for alternative uses where this will help maximise value and where it is cost effective and expedient to do so.
- Where appropriate, the Council will seek to recover from third parties, its reasonable legal, surveying and administrative costs incurred in dealing with all matters involving the non-operational portfolio. The fee recovery will be determined on a case-by-case basis.
- Release/variation of covenants – The Council has the benefit of restrictive covenants placed on previous freehold and leasehold disposals. These covenants usually restrict the use to which land and property can be put, although they could also relate to other forms of restriction.

Any request to release or modify covenants will be considered having regard to the original purpose of the covenant and its current relevance. Where the Council is mindful to agree to a release or other modification, it will seek a reasonable commercial return by way of compensation if the release or modification is considered to have a value, otherwise just fee recovery.

- Public Open Space and Common Land – The disposal of land which is, or forms part of an area of Public Open Space or Common Land (excludes amenity land), is subject to special rules and procedures. Before disposing of such areas, the Council is obliged to publish the intention to dispose and consider any representations which are subsequently received. The provisions regarding the disposal of Common Land require consent from the Secretary of State and

replacement land to be made available where the area of land to be sold exceeds 200m²

- Disposal of School Playing Fields – Where the Council wishes to dispose of land forming part of a school playing field it will be necessary, in all but a minority of cases (area less than 50m²) to seek consent from the Secretary of State for Education under the protection of Section 77 of the School Standards and Framework Act 1998. The Department for Education will usually only agree to the sale of school playing fields if the sports and curriculum needs of schools and neighbouring schools can continue to be met. The Secretary of State for Education expects Local Authorities to have first investigated and exhausted all other possible sources of funding before considering the sale of school playing fields.
- Disposal of Former School Sites and Former School Caretaker's Houses – Where the Council wishes to dispose of a former school site it will be necessary to seek consent from the Secretary of State for Education, if the closure was in the last eight years.
- Appropriation

The Council may from time to time need to change the purpose for which it holds land, i.e. appropriate it for certain purposes. For example, land held by legacy authorities prior to vesting day may be required for different purposes in the new authority and therefore the process of appropriation would need to be adopted.

The Council has statutory powers of appropriation under the s.122 Local Government Act 1972. To use those powers, the Council must establish that the relevant part of the Land is required for planning purposes; and the relevant part of the Land that is no longer required for the purposes for which it is held. If the land is held for the purposes of open space, a statutory notice procedure will be adopted, and the Council will give proper consideration for any objections received.

- Easements and Wayleaves etc – The Council will not grant any new easements, private rights of way or privileges over Council owned land unless this is necessary to protect or promote the long-term interests of the Council.
- Any existing rights will remain until such time as the subject land may be released for development whereupon the land will be sold subject to the existing rights.
- Where permitted under the terms of the agreement, the Council will undertake a review of any payments due to the Council.
- The Council will continue to grant easements and wayleaves to statutory undertakers who have compulsory powers and rights to requisition services.

5.9 Consultation

Consultation Approach – Local ward members will be informed in the following circumstances: -

- Before marketing commences for disposal of surplus land or property and the release or variation of restrictive covenants.
- As part of the process for advertising the disposal of 'public open space' • Before submitting planning applications on Council owned land
- Prior to presenting a report to Asset and Procurement Committee – where an asset is to be disposed of within their ward, the local ward member is to be informed, they will be given at least 20 working days to respond and all comments whether in support or objecting to the proposal will be included in the report to the decision-making body.
- Chair & Vice Chair of A&P Committee and the wider Spokes Meeting: The Forward Plan will be used to keep Asset and Procurement committee members informed of programmed disposals coming forward to allow comment/consultation at spokes meetings in advance of a report being presented at committee.
- Public: Officers must consider whether the specific facts of a proposed transaction give rise to public consultation as a disposal may be subject to a statutory duty to consult for example as mentioned previously in the case of a proposed sale of a public open space. This will include member involvement. Where a disposal is complex or has a definitive community interest consultation with the community will be carried out.

5.10 Evaluation of Bids

An evaluation scoring matrix plan for bids will be agreed by property colleagues prior to marketing.

The scope of evaluation will be determined by the complexity of the disposal, the interest and impact from a community and member perspective.

For key decision disposals which are required to seek approval through the A&P Committee the suggested evaluation criteria will be shared within the report for committee approval at the point of approval to market.

The evaluation scope can range from a purely financial outcome, so the financial bids are the only assessment, to an evaluation with weighted evaluation criteria

which would include the scoring of the financial bid, deliverability, environmental impact, social value impact and economic impact.

If there are any differential in proposed completion timescales due to conditions i.e. whether the bid is conditional or unconditional, then an evaluation criterion to assess Net Present Value will also be used to determine best consideration.

An anonymised scoring matrix as an example is shown below.

DISPOSAL SCORING MATRIX						
Moderation Scoring						
	Scoring					
Bidder	BA291	Agent	Education	Mean Average Score	Bid Position (Based on Average score)	
1	93.00	99.00	99.00	97.00	1	
2	50.75	48.75	27.75	42.42	3	
3	57.75	46.75	39.75	48.08	2	
4	43.75	19.75	34.75	32.75	5	
5	16.25	11.25	14.25	13.92	7	
6	43.75	45.31	31.31	40.13	4	
7	28.00	30.00	24.00	27.33	6	
Summary of Bid Scores - Criteria based.						
Bidder	Bidder Number (Position)	Deliverability (Max Score 150)	Financial Offer (Maximum Score 60)	Economic Impact (Maximum Score 30)	Social Impact (Maximum Score 30)	Environmental Impact (Maximum Score 30)
1	1	145	60.00	29	30	27
2	2	25	47.25	26	26	20
3	3	95	47.25	2	3	1
4	4	26	48.94	10	22	11
5	5	16	47.25	12	11	12
6	6	14	0.00	19	24	25
7	7	3	33.75	1	4	0

5.11 Council Constitution

The Council's Constitution assigns authority for all property transactions to the Assets and Procurement Committee, with responsibility to **'consider, evaluate and agree property disposals (overseeing any public consultation where it is applicable/in line with policy), acquisitions, and investment opportunities,** in consultation with the relevant service committee.

Within the constitution there are delegated powers to the Executive Director: Finance and Resources for transactions and disposals of property with a capital value under £750,000 or an annual rental below £150,000. A Finance and Resources Directorate scheme of delegation provides further delegation to the Service Director of Property up to £500,000 and the Head of Assets up to £200,000 for capital transactions.

Therefore, all disposals of property above £750,000 in capital value and all disposals of property with an annual rental of £150,000 and above will be presented at Assets and Procurement Committee for approval. If the initial valuation is below £750,000 but the disposal process delivers a bid which exceeds this value a report will be brought to A&P Committee for approval aligned with the constitution.

The authority and declarations for the different types of disposals are detailed within Appendix 2: Threshold Disposal Matrix.

Protected leases are an exception where committee approval is not required. These leases have an automatic right to renewal, and courts may award terms of up to 15 years.

In all matters the councils' appropriate codes of conduct will apply to all officers and elected members involved in the process and decision making to dispose of any assets.

Depending upon the nature of the transaction, it is possible that a disposal at less than market value will be considered as a form of subsidy to the purchaser. If applicable the council must ensure that the relevant subsidy control rules are compiled with to ensure the disposal is not regarded as unlawful but in all cases details of the particular transaction must be referred to Legal Services for comment

5.12 Money Laundering

All transactions will be carried out in accordance with the Councils Contract Procedure Rules.

Legal services will carry out all due diligence on the purchasers and ensure that purchasers' solicitors have an up-to-date Anti-Money Laundering Policy and that they are registered with the Law Society.

5.13 Instructions to Legal

Once a potential purchaser has been identified and all the terms of the disposal have been agreed and approved (or earlier if appropriate), Legal Services will be instructed to prepare the relevant legal documentation. A programme detailing anticipated timescales to completion will be reported to the Service Director Property.

5.14 Completion

Once the disposal has been completed and contracts exchanged, Legal Services will advise the Head of Assets, and this will be reported to both the Asset Programme Board and the Capital Programme Board to allow for the amendment of the Capital Receipts Programme, to ensure that an up-to-date financial position is maintained.

Immediately following completion (no more than 14 working days) to avoid further unwarranted expenditure the Head of Assets will initiate the following important post sale processes.

- Instruct the Asset Records Manager to amend the Corporate Asset Register and Concerto (Property Management System) and record the sale on the database.
- Instruct the Property Helpdesk colleagues to cancel property repairs and statutory contracts for this site from the ordering system, Corporate Insurance officers to cancel insurance liability, estates surveyors to cancel rates/council tax liabilities and arrange any rebates and cancel any planned maintenance work.

The ward member and any residents who were consulted will be notified of the completion.

5.15 Community Asset Transfer Process

The Council has an existing Community Asset Transfer (CAT) Guidance Document 2009 which advises prospective community groups of the opportunities this process provides. If an asset is used for social, community and public purposes and the benefits of that service are deemed to outweigh the value of continuing ownership by the Council on behalf of its residents, the Council may consider the transfer of the asset to a parish or town council or a charity or community group, known as a Community Asset Transfer. Although an approved CAT Policy is not a legal requirement of a council a new revised CAT process is included within Appendix 3 of this policy, this will provide transparency and consistency in the process and alignment with this disposal policy and replace the existing guidance from 2009 and be implemented when approved alongside the Disposal Policy.

6.0 Policy Review

This policy will be reviewed on a periodic basis to ensure that it takes account of any changes in council constitution, professional and industry guidance and statutory legislation.

The vesting of the new unitary authorities as a result of Local Government Reorganisation will allow for this policy to be renewed as part of the new councils Constitutions.

7.0 Appendices

Appendix 1: Land and Property Disposal Policy

Appendix 2; Disposal Threshold Matrix

Appendix 3: Community Asset Transfer Guidance and Process.

Appendix 4: Flow diagram process to determine assets surplus

Appendix 5: EQIA document

