

Guildford Borough Council

Report to: Executive

Date: 18 April 2024

Ward(s) affected: All

Report of Director: Strategic Director - Place

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Report Status: Open

Asset Disposal Strategy

1. Executive Summary

- 1.1 The Council is seeking to generate £50M (net) of capital receipts from the disposal of property assets held within the General Fund.
- 1.2 This activity is an identified critical workstream within the Financial Recovery Plan endorsed by Full Council at its meeting on 30 August 2023.
- 1.3 A proactive and strategic approach to identifying and progressing an accelerated volume of property asset sales is required.
- 1.4 This report sets out options available to the Council to progress an asset disposal programme to achieve the £50M (net) target and a recommendation to approve the draft Asset Disposal Strategy.

2. Recommendation to Executive

That the Executive approves the draft Asset Disposal Strategy (Appendix 1) and notes the Equality Impact Assessment (Appendix 2).

3. Reason(s) for Recommendation:

To set out a strategy to generate capital receipts through the sale of assets to meet the £50M (net) target as part of the Financial

Recovery Plan to reduce Council debt to achieve a sustainable financial position.

4. Exemption from publication

None.

5. Purpose of Report

To set out a draft strategy which the Executive will apply to assess and determine any future proposed asset disposals.

6. Strategic Priorities

- 6.1. The Financial Recovery Plan endorsed by Full Council at its meeting on 30 August 2023 included a workstream to review the Council's property assets and consider those which could be suitable for disposal to help reduce the Medium-Term Financial Plan (MTFP) budget gap.
- 6.2. At its meeting of 8 February 2023, Full Council approved the 2023/24 budget and MTFP with an £18.3m projected deficit 'to be resolved'. The July 2023 Council General Fund Budget update report explained that the Council's ambitious capital programme had resulted in a significant need for the Council to borrow and to provide for debt repayment through its minimum revenue provision. It identified the Cost of Capital financing as a significant contributor to the £18.3m MTFP deficit. The July report stated that the Council's debt must be reduced to achieve a sustainable financial position and that this could be supported through the sale of some of its property assets.

7. Background

- 7.1 The Council's financial accounts identify General Fund property assets into two major categories that are in scope for consideration. These are Investment Properties held purely for income generation or value appreciation but do not fulfil any service objective, and Land and Buildings assets held for operational or strategic reasons. Other categories also in scope are defined in the financial accounts as Surplus assets which are those no longer needed and surplus to requirement, and Community assets that include open space and land assets.
- 7.2 Housing Revenue Assets are outside the scope of this programme.

- 7.3 In preparing the Asset Disposal Strategy, similar strategies employed by other Councils including Slough, Croydon and East Sussex have been considered to learn from their approaches taken.
- 7.4 Assets will be reviewed for:
- Current property book valuations
 - Alternative use valuations
 - Income and related expenditure
 - Service use of an asset
 - Tenure and occupancy status
 - Contribution to the Corporate Plan, delivery of statutory services and strategic significance
 - Commercial, contractual, and other significant factors e.g., political sensitivity that might affect the decision to sell.
- 7.5 An initial review of the Council's corporate property assets has been completed by officers to assess the potential suitability of each asset for disposal employing a red, amber, or green (RAG) rating measure.
- 7.6 This assessment has provided a preliminary view on whether an asset potentially falls within a sell, review, or keep outcome based upon a number of assumptions. Such assumptions include assessment of the income and expenditure to determine the yield received, knowledge of the suitability of the asset to the Council service requiring its use, and any legal or practical property considerations that could impede a potential disposal.
- 7.7 Executive Heads of Service and Service Leads have been consulted on potential disposal opportunities to ascertain whether those can be brought forward for consideration having regard to latest operational requirements. Assets that are essential to the delivery of Council Statutory Services and those that continue to provide an attractive and sustainable investment return are to be protected.
- 7.8 Land and Building assets of strategic significance or for public realm as well as those which may be required as part of the Council's Corporate Plan, e.g., Shaping Guildford's Future are also to be protected.

- 7.9 The strategy involves focusing on assets that would ideally have limited negative impact on the Council's revenue income stream in terms of rent or other income received. Where such assets have been identified for possible disposal, this may be because of uncertain sustainability of the current income received in the longer term, for example, without significant further investment being made into the buildings.
- 7.10 A measured and structured approach is to be taken when placing assets on the market via a phased programme to avoid the perception of a fire sale and the negative impact that may have on the pricing of assets. The strategy involves identifying the more straightforward assets and marketing these in the earlier phases of the programme.
- 7.11 More complex assets may be held back to a later phase, where there may be greater political sensitivity such as community based assets identified as surplus or where it may be necessary to carry out preparatory work prior to being considered for sale, or if obtaining a variation to planning to allow redevelopment would allow best value to be achieved within the timeframe and to comply with Section 123 of the Local Government Act.

8. Consultations

- 8.1 The Lead Councillor and members of the Financial Recovery Executive Working Group (FREWG) have been consulted during which the issues have been discussed and following which the recommendation of the Asset Disposal Strategy was endorsed.
- 8.2 Executive Heads of Service have also been consulted during the review of potential assets for disposal to identify those assets which need to be protected as a result of their requirement for operational services to be maintained.
- 8.3 Officers will engage with Ward Councillors on the individual disposals at the relevant time.

9. Key Risks

- 9.1 Key Risks include;
- Assets marketed for disposal do not sell or the sale of assets identified for disposal do not achieve the net £50M target of

capital receipts and/or not within the timeframe required. To mitigate this, the progress of asset sales and the level of capital receipts achieved will be closely monitored and if necessary, additional assets may need to be added for potential disposal. This could impact negatively on net revenue receipts in the event these generate investment income to the Council.

- Encumbrances are identified that may frustrate or prevent a sale concluding. To mitigate this the Council will obtain a report on title and identify any potential encumbrances which may impede a sale completing or impact on achieving the market valuation obtained for each individual asset identified for potential disposal.
- To mitigate the impact of potential loss in revenue income received, the strategy recommends where possible, protecting those assets generating an attractive rental yield and sustainable level of rental income.

10. Financial Implications

- 10.1 To generate the required £50M (net) of capital receipts, the Council will incur fees throughout the programme and during the asset disposal process.
- 10.2 Initially, officers will need to appoint property agents to provide valuations. The fees will be payable in two stages; following receipt of an initial Opinion of Value and thereafter a formal Red Book Valuation in accordance with the RICS Global Standards for those assets where approval to proceed to disposal is received.
- 10.3 Other costs may be incurred during the programme such as obtaining planning advice, legal fees and appointing other specialist services such as architects and design consultants.
- 10.4 Subject to a further separate tendering exercise, disposal fees will be payable to Agents following legal completion of sales.
- 10.5 All costs incurred will initially be funded from the Council's General Fund revenue budget and then subsequently financed from the proceeds of sales. The total gross capital receipts will therefore need to exceed £50M to cover these costs incurred. There are enough revenue funds set aside to accommodate the initial costs.

10.6 The Council is aiming to protect its revenue stream; however, this will not be possible in every asset disposal where most assets are leased or licenced out and the Council receives rental income. In such instances, the Council's income receipts will be negatively impacted. This is however balanced against the level of capital receipts generated, as well as the annual saving of ongoing expenditure incurred to repair, maintain, and manage the asset.

11. Legal Implications

11.1 Full consideration will need to be given to the legal implications of each potential sale, including considering the power under which the land is held, the status of the land, whether there are any secure tenancies in place and the use of the land.

11.2 The Council has wide powers for disposal of its property assets under s123 of the Local Government Act 1972 provided that it obtains the best consideration that can be reasonably obtained for the land. If less than best consideration is going to be achieved, then the consent of the Secretary of State is required. The Secretary of State has given a general consent under Local Government Act 1972: General Disposal Consent (England) 2003 and in all other circumstances specific consent must be obtained.

11.3 If land is held for planning purposes, then the Council can dispose of the land under s233 Town and Country Planning Act 1990 and if best consideration is not obtained then specific consent from the Secretary of State will be required.

11.4 If the land consists of open space, then the Council must comply with the requirements of s123 (2A) Local Government Act 1972 or s233(4) of the Town and Country Planning Act 1990 to advertise the disposal of land for two consecutive weeks and consider any objections.

11.5 The Council can also dispose of land for housing purposes under s25 of the Local Government Act 1988 and s32 of the Housing Act 1985 (as amended). The consent of the Secretary of State is required in some circumstances and General Consents have been issued by the Secretary of State.

11.6 If the land is held by the Council as trustee, the Council has additional responsibilities which arise from its role as trustee and

will be subject to the disposal requirements set out in the Charities Act 2011. Such disposals will need to be considered by the Executive Shareholder and Trustee Committee in accordance with the requirements of the Charities Act 2011, any directions issued by the Charity Commission and professional advice.

- 11.7 There will also need to be consideration as to whether the Public Contracts Regulations 2015 apply if there is any requirement for development. If a transaction is structured as an exempt land transaction as per Regulation 10(1)(a) of the Public Contracts Regulations 2015 (PCR) then it will not constitute a "public works contract" and the Council will not have to go through a procurement exercise.

12. Human Resource Implications

- 12.1 Additional resource required to progress the strategy/project.
- 12.2 Staff consultations where service teams will be impacted by the loss of an operational asset.

13. Equality and Diversity Implications

- 13.1 Public authorities are required to have due regard to the aims of the Public Sector Equality Duty (Equality Act 2010) when making decisions and setting policies.
- 13.2 An Equalities Impact Assessment has been completed in regard to the draft strategy and is set out at Appendix 2.

14. Climate Change/Sustainability Implications

- 14.1 If a site is deemed to have potential for renewable energy generation this can be considered in future opportunities.
- 14.2 The disposal of any selected asset is likely to reduce the Council's overall carbon emissions. Carbon Savings may be impacted by removing renewable energy potential (if applicable) and may have a negative impact on the Council's short-term Scope 3 carbon emissions. However, these emissions are currently outside of the scope of the current climate change action plan and are difficult to calculate without a defined methodology.

15. Summary of Options

- 15.1 Do nothing and continue to adopt a business-as-usual approach to disposing of the Council's surplus owned assets without an approved Asset Disposal Strategy. This option is not recommended as it is highly unlikely to deliver the targeted capital receipts of £50M net by March 2027.
- 15.2 Proceed with the Asset Disposal programme ignoring political, local community and any other sensitive issues along with all operational requirements of the Council's service teams whilst basing any decision to dispose of an asset purely on economic grounds. This option is not recommended due to the inability of the Service teams to function without suitable premises and the likely objections that this would raise.
- 15.3 Proceed with the Asset Disposal programme ignoring operational service requirements for use of selected assets. This option is not recommended as for each impacted Service to continue operating, it would likely result in the Council needing to fund the purchase of alternative premises.
- 15.4 Proceed with the Asset Disposal programme without first investigating any legal issues such as restrictive covenants and planning issues which may need to be resolved prior to placing an asset on the market. This option is not recommended due to the risk of sales falling through and possible reputational damage to the Council, as such encumbrances could potentially frustrate the sale of an asset completing.
- 15.5 Proceed as per the approach set out in the Asset Disposal Strategy having regard to the wider considerations including sensitive political and community issues, operational service requirements, the financial impact of disposal as well as property and legal issues that may impact on a sale progressing. This option is recommended.
- 15.6 The recommended option is to proceed with the Asset Disposal Strategy as proposed in paragraph 15.5, having regard to the wider considerations noted – this option should mitigate the risk of disposing of any asset required to support ongoing service delivery provided by the Council and will fully assess the economic

benefit of disposing of each individual asset whilst achieving best value. By dealing with any legal and property matters prior to marketing, this will reduce the number of sales from being potentially frustrated or falling through during the disposal programme and enabling the £50M target to be met by March 2027.

16. Conclusion

- 16.1 The Council is required to generate £50M (net) of capital receipts from the sale of property assets held within the General Fund as set out in the Financial Recovery Plan.
- 16.2 Officers' recommendation to the Executive is to approve the draft Asset Disposal Strategy setting out the approach to be taken to dispose of property assets to mitigate the risk of the Council being unable to achieve sales to meet the £50M (net) targeted capital receipts by March 2027 and to achieve ongoing future savings in revenue costs.
- 16.2 This will have regard to sensitive political and community issues, operational service teams' requirements, full consideration of the economic impact of each individual disposal, along with legal and property issues that could potentially frustrate or prevent a sale concluding being investigated, prior to deals progressing.
- 16.3 On approval of the draft Asset Disposal Strategy, officers will progress with the preparation of individual Summary Property Reports and thereafter, following Executive approval to proceed with individual property asset sales, commence marketing for disposal.

17. Background Papers

None

18.0 Appendices

- 18.1 Appendix 1 – Draft Asset Disposal Strategy
- 18.2 Appendix 2 – Equality Impact Assessment