

9 July 2012**Agenda Item: 6****REPORT OF SERVICE DIRECTOR FOR TRANSPORT, PROPERTY AND
ENVIRONMENT****OVERVIEW OF PROPERTY****Purpose of the Report**

1. The purpose of the report is to;
 - (a) provide the Committee with an overview of the County Council's Property Strategy and its delivery.
 - (b) seek approval of the Committee to delegate estate management decisions to implement and deliver property plans and programmes to the Service Director Transport, Property and Environment.

Information and Advice

2. Some information relating to this report is not for publication by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972. Having regard to the circumstances, on balance the public interest in disclosing the information does not outweigh the reason for exemption because divulging the information would significantly damage the Council's commercial position. The exempt information is set out in the exempt appendix.
3. The Council occupies over 1400 sites that include schools, libraries, social care establishments, headquarters/administrative buildings, youth clubs, small-holdings and country parks etc. In common with many other public sector organisations the County Council portfolio has a significant maintenance backlog of over £200 million. The annual running cost of the buildings is in excess of £60 million per annum.

Property Strategy

4. The Council's property strategy is aimed at ensuring the property portfolio is managed effectively to support the Council's priorities and value for money from the corporate estate is maximised. The Council's property strategy is also aimed at working towards minimising the overhead costs of its property estate and maximising capital income generated from the disposal of surplus assets whilst protecting service delivery performance and maximising service outcomes.

The Council's priorities are set out below for ease of reference.

- To foster aspiration, independence and personal responsibility

- To promote the economic prosperity of Nottinghamshire and safeguard the environment
- To make Nottinghamshire a safer place to live
- To secure good quality, affordable services
- To be financially robust and sustainable

The key strategic objectives of the Council's property strategy can briefly be described as follows:

- (1) Strategic management of the estate to support corporate goals and objectives.
- (2) Property estate is fit for purpose and effectively supports service property delivery. Councillors are no doubt aware the total value of the corporate estate encompassing land and buildings is in excess of £1.2 billion in value and 1.35 million sq m of floor space.
- (3) The Council's property strategy is underpinned by the overarching principles which are required to make the optimal contribution to the aims and objectives and that the Council's property is one of the key corporately owned resources. The property strategy is supported by a number of property plans and programmes which entail the following:
 - (a) Undertaking continuous review and rationalisation of these resources to ensure that they are appropriate, efficient and fit for the purpose required.
 - (b) Management and maintenance programmes for the estate to ensure compliance with relevant legislative requirements, particularly Health and Safety (H&S) reducing the maintenance backlog.
 - (c) Corporate framework for the use and management of operational property in respect of disposal, acquisition and investment.
 - (d) Strategically led asset disposal programme for surplus property in order to optimise use and maximise capital receipts.

The diagram below shows how the elements of the corporate property strategy combine with the aims and objectives of the Council to achieve desired outcomes for both internal and external customers and other stakeholders.



- (4) Strategic planned maintenance refurbishment programmes for the property estate, including statutory compliance in relation to health and safety responsibilities of the Council both as a property occupier and owner.
- (5) Provide value for money and optimising efficiencies; maximising income and capital receipts from the property estate.
- (6) Ensure continuing need, effective occupation and usage.
- (7) Partnerships with our communities and other bodies.

In order to respond to the financial pressures in these austere times, the Council embarked upon a new Corporate Strategy of “One Council, One Business, One Plan”, with the need to modernise and streamline all services within. Therefore, the need to achieve maximum value for money and efficiency savings from the proper management of the property estate will continue to be paramount considerations in the property plans and property strategy.

It will need to be achieved whilst maintaining the service and ensuring all buildings are fit for purpose and that the people of Nottinghamshire see minimal change to services received from the Council.

In order to ensure the property services are achieving maximum value for money for the Authority a number of strategic framework partnerships have been forged with the private and public sector in the region.

Property ownership is not the first priority of the Council, but it is recognised that the quality of facilities does affect services.

The property strategy establishes the targets for managing the Council's property assets as described in the Council's Asset Management Plans in accordance with reflecting changing priorities. The council occupies a large property portfolio which is subject to continual review to ensure it meets service needs. Because property cannot be modified or traded instantaneously, this process requires long term planning and co-ordination.

Property plans and programmes underpinning the strategy are implemented to deliver the Council's service objectives.

5. **Capital Receipts Programme**

The capital receipts programme incorporates the sites which are currently anticipated to be sold to generate capital income for the Council up to and including 2015/16.

Values included in the capital receipts list are based on the latest firm information available. Property holds all of these sites under review for enhancing values where possible but until there is a reasonable expectation that a higher value can be achieved, the values are not revised.

The methodology used to determine the most suitable method of disposal for the Council's surplus land and property is set out in **Appendix 1**.

The total capital income for 2011/12 amounted to £16m against an MTFS target of £17m.

6. **Capital Receipts Projections**

Projections for the years 2012-16 are shown in exempt appendix 2.

The bulk of these receipts will be generated from the sale of land for housing development. The sites are being promoted by the Council in the District Councils' Core Strategies to deliver housing numbers.

The latest predictions are the result of a significant downgrading of values provided by external agents, as compared to figures produced in 2011, plus some slippage of sales as a result of the time taken by District Councils to develop their Core Strategies.

It must be emphasised that the future projections rely heavily on the successful disposal of a small number of large development sites, set out in Exempt **Appendix 2** as it contains commercially sensitive information.

7. **Property Reviews**

(i) Smallholdings

A strategic review of smallholdings has been completed and the outcome was agreed by the Cabinet Member for Finance and Property. Three smallholdings have been sold. The remaining 20 will be retained under annual review and disposed of as and when they become suitable for development. Given the recent significant increase in agricultural land values, work is ongoing to identify any farms, with no strategic value, which could be brought to the market at the earliest opportunity.

Smallholdings recently sold:

- Swallow Lane, Rolleston £515,000
- Glebe Farm, East Bridgford £1.33m
- Whatton Lodge, Whatton £800,000

(ii) Industrial units

As previously reported, a strategic review of these 9 estates has been completed and three estates are to be sold.

Following discussions with Mansfield District Council, (the landlord for Advance Factory No 1, Kings Mill Way and Meden Court), it has been agreed that there is additional 'marriage' value to be gained in undertaking a joint disposal. This required Mansfield District Council to gain consent to disposing of their freehold interest, which is now in place.

Negotiations have focused on the vacant Advance Factory No 1 and in particular agreeing the apportionment of any potential sale proceeds using various methodologies. This has proved to be complex and fraught with potential difficulties at the point of sale. The latest offer from Mansfield DC is therefore a straight split on the sale proceeds based on 82.5/17.5% in favour of the County Council. This is a significant move towards resolution and with agreement also reached on the reserve and guide price it is anticipated that subject to a revised approval, Advance Factory No 1 will be placed in the next available auction.

Kilton Terrace, which is fully let, is owned by Bassetlaw District Council. Their consent to allowing the County Council to dispose of the leasehold interest was originally on the condition that an authorised guarantee agreement (AGA) was entered in to. This would have effectively meant that should the new purchaser of the estate default in the future in terms of rent or repairs, Bassetlaw District Council could revert to the County Council for any money they were owed or compel the County Council to take over the lease.

Following further negotiations, Bassetlaw District Council have now agreed to dispense with the need for an AGA in return for the new purchaser depositing a security bond. Bassetlaw District Council has also agreed not to enforce the repairing covenant which otherwise would have obligated the County Council to leave the units in good repair; at considerable expense. On the basis that this is agreed, subject to a revised approval, Kilton Terrace will be brought forward to the next available auction.

The remaining six estates are held under annual review. These six are currently generating an income which is in excess of the return on capital value that would be achieved after disposal and should therefore be retained at the current time.

(iii) Daycentres

These properties are currently subject to a refurbishment programme which will require a net capital investment of around £3.652m and will be completed by December 2012.

The total capital receipt income is anticipated to be in the region of £0.515m.

Dallas Street daycentre and attached bungalow in Mansfield was released for disposal in August 2011 and is now sold. Rokerfield and New Outlook will both be released for sale within the programme before December 2012.

The latest programme of works for the retained properties has been developed by the project team and the costs and timing of this programme have been assessed and agreed by the appointed external architect.

(iv) Strategic Asset Management

Property has worked with Productive Notts (a PCT initiative to rationalise its property estate and identify other procurement savings) to develop a joint property mapping/rationalisation project.

In addition, Property is working with the East Midlands Property Alliance to develop a wider regional property mapping project across the East Midlands

Ongoing reductions in the size of the portfolio are being pursued, for example:

- 1) Queens Buildings in Worksop was vacated in March 2012.
- 2) Centenary House has been vacated and is currently on the market for sale
- 3) Sir John Robinson House is still occupied but is currently on the market for sale.
- 4) Work is ongoing to identify options to release potentially valuable development land adjacent to the Grove School, Newark.

(v) Coal Recovery

There are a number of colliery spoil tips and yards within County ownership which have within their boundaries settlement lagoons which were used to process wash water from coal washings. The lagoons have been filled in and restored to natural landscaping. The lagoons date from early 20th Century to late 1970's, the date of closure and final use having significant impact upon the fine coal deposits within the lagoons with the earlier closures having the greater likelihood of significant quantities and quality of coal deposits.

There is potential that these coal deposits have a significant value. Desktop feasibility work is being undertaken to assess the potential value together with legal investigation into the rights that the Council may have to retrieve the coal deposits.

The project has three potential benefits:- firstly it could provide a significant income stream over a number of years, secondly it would remediate the land to an improved standard thereby reducing the risk of underground fires, finally the remediated land could have either improved public access and landscaping or provide potential commercial land for future sale.

The immediate legal issues will determine whether NCC have the rights or whether the Coal Authority has retained the rights to the coal deposits. Even if the latter is the case it may be worth pursuing this project by negotiating a deal with the Coal Authority. Further investigation is required into how a contract would be let to carry out the work to extract and sell the coal and remediate the land.

8. Property Programmes

i) Schools Capital Investment

Councillors are no doubt aware that the County Council has embarked upon a substantial programme of investment to refurbish 320 schools over a 3 year programme in order to make them fit for purpose and also address the sizeable backlog of repairs that has been mounting in recent years. This is the largest programme of its kind with an investment of nearly £70 million over a relatively short period.

The delivery of this programme is being managed by Faithful and Gould acting as external programme managers, designers and contract administrators.

DfE has recently confirmed that Nottinghamshire has secured a programme of 15 new schools from the Priority Schools Building Programme.

Nottinghamshire secured the greatest number of schools to be included in the programme by any Authority in the country. The bid for this funding was predominantly based around property information collected, held and provided by the Property Group.

A programme of works for school extensions to accommodate identified basic need has been agreed between CFCS and the Property Group.

The projects to be delivered are:

- Abbey Primary
- Arnold Mill Primary
- Berry Hill Primary
- Carnavon Primary
- Croft Primary
- Dalestorth Primary
- Ernehale Primary
- Holy Trinity Primary
- King Edward Primary
- Lambley Primary
- Leen Mills Primary
- Newgate Lane Primary
- Ordsall Primary
- Radcliffe on Trent Infants
- Richard Bonnington Primary
- Robert Miles
- Rosebrook Primary
- St Peters Primary
- Sir Edmund Hillary Primary
- Sutton Road Primary

ii) Capital Programme

This programme typically totals around £20-30m pa and is largely delivered using externally appointed specialists and contractors. Key projects are allocated to specialist project managers to control delivery within time and cost targets.

Key completed projects within the Capital programme are:

Ryton Park Primary School
Springbank Primary School
Greasley Beauvale Primary School
Data Centre refurbishment
Mansfield Library refurbishment
Eastwood Youth Centre
Bilthorpe Highways Depot

Key ongoing projects within the Capital programme are:

West Bridgford Library refurbishment- due for completion February 2013
Archive building refurbishment- due for completion early 2014
Fernwood Primary School- due for completion September 2012
Bassetlaw Specialist Facility- due for completion October 2012
Edwinstowe Respite Centre- due for completion October 2013
Sharphill Primary School- awaiting Developer progression
Heymann Junior School extension- due for completion October 2013
Mansfield Bus Station - due for completion February 2013

Key ongoing Programmes within the Capital programme are:

Day Services programme- due for completion early 2013
Schools Basic Need- due for completion September 2012
Schools Basic Need programme - due for completion September 2013

iii) Planned Maintenance Programme

The Planned Maintenance programme for 2012/13 currently stands at £10.995m and comprises £5.998m Capital funds and £4.997 Revenue funding, this funds 656 projects to date across the whole of the property portfolio. The budget is split on a percentage basis of the identified need from the condition surveys across all departments, the identified works are prioritised on the following basis; Health & Safety, Statutory compliance, Priority 1 & 2's from the condition surveys looking at the four main elements of roofing, external windows and doors, major mechanical and electrical services such as new boilers and rewires. There is also a small element of funding reserved for general maintenance such as redecorations, toilet refurbishments etc. An allocation of funding is top sliced from the overall budget to meet the Authorities statutory compliance needs (e.g. Asbestos, legionella, fire, service agreements etc) and a contingency for unforeseen items which arise during the course of the year. The whole programme is discussed with property representatives from all departments for their input before the final programme is rolled out to be delivered.

Over the last few years the basic Planned Maintenance budget has been supplemented with additional funding to reduce risk from mounting Health & Safety and statutory compliance items, these initiatives are now reaping the rewards by minimising health &

safety risk to occupiers and users of the property portfolio by improved fire safety, reduction of high risk areas where legionella bacteria can proliferate, and better management of asbestos within the properties.

The Planned Maintenance programme is compiled in conjunction with other building related programmes within the Authority such as 'Schools Capital Refurbishment Programme', 'Day Centre refurbishment programme', the 'Schools Basic Need Programme', 'Ways of Working' and the recently successful 'Priority Schools Building Programme'. Whilst it can be appreciated that these related programmes are all in the best interests of the Authority these can have significant affect on how the planned maintenance programme is compiled and actioned, Corporate Property are confident that the resulting programme meets all of these changing needs.

9. School Academy Transfer Programme

The transfer of schools to academy status has required a very significant input of specialist asset management resource from Property since July 2011 and this is currently ongoing. Additional resources have been brought in to deal with the necessary information collation of the first tranche of conversions.

The deadlines for conversions are demanding and are dictated by DfE requiring expeditious and timely actions by the Authority. It is pleasing to report that all the academies transfers have been completed within the required timescales.

10. Estate Management Decisions

There are a number of operational decisions and transactions which take place as part of efficient running of the Estates Management function. These decisions accord with the property strategy and related plans and programmes approved as part of the Council's decision making processes. These operational decisions comprise the following approvals:

- Grant and renewal of garden and grazing licenses
- Grant and renewal of short term licenses for other uses (such as fire-work displays, summer fairs etc)
- Renewal of leases where there is an automatic right to renewal under specific legislation – such as Telecomm towers
- Renewal of leases where there would be no other strategic use for properties – such as Industrial Units
- Renewal of leases where there is no other strategic use for land – such as grazing and stable leases, sailing clubs etc
- Granting of wayleaves and easements to public utilities
- Deeds of Variation
- Property led dilapidation surveys
- Landlords consent – alterations/change of use
- Rent renewals
- Low value Compulsory Purchase Order claims
- Small (low value) disposals

11. Method of Disposals

Councillors should note that a range of methods of disposal are used by the Authority when selling property. Ordinarily disposal of land and property will be via a competitive process on the open market by open informal tender.

Where it is considered inappropriate to use this method of sale, other methods will be considered from the following:

- A. Public Auction
- B. Private Treaty Sale to One Party or Special / Specific Purchaser.
- C. Limited Binding Tender

The detail behind the decision making process in relation to this decision is set out in appendix 1.

Other Options Considered

- 12. In relation to the estate management decisions, to take each transaction to the Committee in the form of a report requiring full Legal and Finance comments – this would hamper the smooth running of the Estate and create vast numbers of reports for the Committee to consider thereby increasing the workload of both the Committee and Estates Officers.

RECOMMENDATION/S

- 1) That Committee notes and supports the property strategy and its contingent plans and programmes as set out in the report.
- 2) That Committee authorises the Service Director, Transport, Property & Environment to make the estate management decisions as listed in paragraph 10 of the report.

Jas Hundal
Service Director – Transport, Property & Environment

For any enquiries about this report please contact: Patrick Robinson 0115 977 2086

Constitutional Comments (SSR 28.6.12)

- 13. The decision sought by the recommendation may be approved by the Finance and Property Committee

Financial Comments (CDS 16/06/12)

- 14. There are no financial implications arising directly from this report, and will be covered in detail in future individual reports.

Background Papers

15. None

Electoral Division(s) and Member(s) Affected

16. Ward(s): n/a
Member(s): n/a

File ref.: /PJR/SL/

SP: 2260

Properties affected: 09998 - Various NCC Properties and non-property items

Appendix 1

Disposal Policy

General land and property sales.

Note: This policy document should be read in conjunction with the attached commentary notes at appendix 1a

1. Guiding Principle

All sales should be structured to ensure that the Capital receipt is maximised and best value for the authority is obtained.

2. General Principle

A local authority has general and discretionary powers under s.123 of the Local Government Act 1972 to dispose of land in any manner they wish.

Nottinghamshire County Council will ordinarily dispose of land and property via a competitive process on the open market by open informal tender.

Where it is considered inappropriate to use this method of sale, other methods will be considered from the following:

- a) Public Auction
- b) Private Treaty Sale to One Party or Special / Specific Purchaser.
- c) Limited Binding Tender

The Service Director, Property – in consultation with Group Manager, Property or appropriate officers/agents will recommend the method of marketing from the above list based on his professional judgement. Where a property is to be marketed using methods A – C then a report or briefing note recommending the chosen method will be submitted to the Finance & Property Committee for approval.

3. Exceptions

It may not be appropriate to dispose of some of the Authority's land and property using the methods A to D outlined above. Examples of such cases are outlined as follows:

- A. Sales of small areas of land where this is realistically only one potential purchaser, for example an adjoining owner who wishes to extend his garden.
- B. Sales of land where there is a special purchaser for whom the land has a higher value than for anyone else – for example ransom strips, marriage value, freehold reversions.
- C. Where a marketing exercise has failed to secure a purchaser and it is considered that a further marketing exercise will not result in a sale taking place.
- D. On occasion, the Authority may wish to support or encourage a specific use or development. In this case a disposal may be negotiated with specific purchasers.

4. Best Consideration

The Authority will always seek to achieve best consideration using the methods of sale outlined above. However, cases may arise where a sale will contribute to the promotion or well being of an area or section of community; In these cases sales at less than best consideration may be considered. Such a sale should accord with the Authority's socio-economic agenda pertaining at the time.

Where a sale at less than best consideration is to be considered, Committee Members and Chief Officers must be aware of the appropriate business case to justify such a sale.

5. Review

The method of disposal applied to sales will be subject to annual review.

Appendix 1a Commentary Notes

Under the Constitution of the County Council, provision is made for the use of a number of different methods of disposal of surplus property. These are as follows:

- **Limited binding tender**

Similar to open informal tenders, but marketed only to a limited number of selected potential purchasers.

At least 28 days before the last date for the receipt of tenders, selected tenderers will be issued with the appropriate form of tender.

The form of tender will be settled by the Service Director, Property after consultation with the Service Director, Legal and Democratic Services and must be capable of acceptance as a binding contract.

The Service Director with responsibility for Property, in consultation with the Chair/Vice-Chair Finance & Property Committee or appropriate officers, will evaluate tenders and determine which, if any, is to be accepted.

- **Public auction**

Differs from formal tender in that property is offered on the open market in such a way that all potential purchasers are aware of bids as they are made and have the opportunity to outbid each other. Normally an undisclosed reserve price is agreed in advance to ensure a minimum price is achieved. A binding contract is made when the hammer falls.

The Service Director with responsibility for Property, in consultation with the Chair/Vice-Chair Finance & Property Committee or appropriate officers, will decide which auctioneers are to be used. The contract and conditions of sale should be prepared by the Service Director, Legal and Democratic Services. Any reserve price will be agreed by the Service Director with responsibility for property, in consultation with the Chair/Vice-Chair Finance & Property Committee or appropriate officers and with the chosen auctioneers

- **Private treaty sale to one party**

The property is marketed with an asking price which if offered will normally secure the sale, but carries risks of other higher offers being made before the contracts are exchanged.

Where only one party is interested or is to be invited to submit a signed contract, the Service Director with responsibility for property, in consultation with the Chair/Vice-Chair Finance & Property Committee or appropriate officers, shall take a decision after discussing the circumstances with the Service Director, Legal and Democratic Services and the Service Director, Finance.

- **Open informal tender**

Offers are sought and potential purchasers submit, usually on a conditional, non-binding basis. Negotiations with the preferred bidder to agree contract terms will follow which may become unconditional.

The Service Director with responsibility for Property, in consultation with the Chair/Vice-Chair Finance & Property Committee or appropriate officers, will make arrangements in appropriate cases for properties to be sold by Open Informal Tender.

At least 28 days before the last date for the receipt of tenders, an initial public notice must be placed in one or more of the local newspapers and, dependent on the nature of the land or buildings to be sold, in national newspapers and in such other publications as the Service Director, Property considers desirable. The notice must describe the land to be sold, invite requests for tender documents and state the date and time by which tenders are to be returned.

The various methods of sale listed will have different applications dependent upon the circumstances relating to each individual property. These may include, amongst other things:

- ♦ **market conditions;**
- ♦ **physical condition of the premises;**
- ♦ **ongoing holding costs;**
- ♦ **planning and other constraints, etc;**
- ♦ **special purchaser;**

It is therefore important that, once a property is declared to be surplus, careful consideration is given to the most appropriate method of disposal which will demonstrate that the objectives of the Authority, including best consideration are met.

Commentary Note 2

Tenders

The invitation, receipt, opening and evaluation of tenders should be conducted in accordance with section 9, Procurement of Goods, Services and Works and the Contracts Manual.

The Service Director, Environment, Transport & Property will make available to the Service Director, Legal and Democratic Services and the Service Director, Finance on request a copy of the register of accepted tenders, maintained in accordance with section 9, Procurement of Goods, Services and Works and the Contracts Manual.

All parties submitting unsuccessful tenders must be notified promptly of the outcome to

their offer.

Completion of sale

Once a sale has been agreed a reasonable period (up to but not exceeding six months) will be allowed for the completion, except where a longer period is agreed during the original negotiations. If completion has not taken place by the end of the agreed period the Service Director with responsibility for Property should make a report to the Finance & Property Committee, recommending that either:

- The period for completion be extended; or
- Sale proceedings should be started afresh.

The Service Director, Legal and Democratic Services must be advised of all decisions to extend the completion date or to begin the sale proceedings afresh, so that they can inform all interested parties of the decision.

Cancellation

Every contract for the disposal of land or property must include a clause to allow the Council to cancel the contract with the purchaser and to recover from them the amount of any loss resulting from the cancellation if:

- The person, firm or company has offered or given or agreed to give to any person a gift or consideration of any kind as an inducement or reward:
- For doing or refraining from doing or for having done or refrained from doing any action in relation to the contract or any other contract with the Council; or
- For showing or not showing favour or disfavour to any person in relation to the contract or any other contract with the Council; or
- Such acts having been done by any person employed by them or acting on their behalf (whether with or without the knowledge of the purchaser).

In relation to any contract with the Council the person, firm or company or any person employed by them or acting on their behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or any amendment of them, or shall have given any fee or reward the receipt of which is an offence under section 117 of the Local Government Act 1972.

Members and officers of the Council who have a personal or prejudicial* interest in the acquisition or disposal of any Council land or buildings must ensure they comply, as appropriate, with THE MODEL CODE OF CONDUCT FOR MEMBERS or CODE OF CONDUCT FOR OFFICERS set out in Part 5 of the Constitution of the County Council and shall not be supplied with or given access to any tender documents, contracts or other information relating thereto without the authority of the Service Director, Legal and Democratic Services (* prejudicial has the same meaning here as in the 'Members Code of Conduct' which is set out in the Constitution of the County Council).