

Appendix 5 – Asset Disposal ‘tool kit’ (2020)

TOOL KIT FOR DISPOSAL OF ASSETS

Third Draft

Introduction

This process note complements the Asset Disposal Procedure and gives officers a stage-by-stage process of disposing of Authority property. This note is based on ‘learning’ from the Minor Properties Disposal Project. The Senior Leadership Team and the Chair of the Authority have requested it.

Key stages

STAGE 1 - Service appraisal of potentially surplus property

Head of Service/Director Does the Authority need to carry out the activity/service that is carried out from the property. Can another organisation, business or person carry out the activity/service?

Case Worker/Team Manager/Head of Service consider if there is a potentially surplus property the responsibility for which lies within their Service. An initial assessment should be made in accordance with para 4.1.1 and 4.1.2 of the ADP doc namely:

4.1.1 An initial assessment must be made, with the Overarching Principles in mind, to determine whether land is surplus. In making an assessment, the Asset Management Plan Decision Tree should be completed. The following matters should be considered:

4.1.2 Corporate Strategy Fit - where we own property it will be because it fits one or more of the following needs:

- (a) Fits with our three strategic outcomes on landscape, engagement and communities
- (b) There is an operational need and that operational need can only be met by the particular property
- (c) Whether the land is integral to continuity of service delivery
- (d) If the property does not meet (a), (b) and (c) above, it offers or could offer significant revenue raising opportunities to warrant retaining it

Where land or property satisfies any of the criteria at 1(a)-(d) above, it is unlikely to be surplus. Each case should be assessed on the circumstances associated with the land and the Authority's Asset Management Plan.

However, even if the land or property does satisfy any of the criteria at 1(a)-(d) above, it could still be considered for disposal if it cannot meet the two criteria below.

2. Financial sustainability – we only own what can financially afford to sustain for now and for the period of the capital strategy

3. Asset condition – any property we own will be put into satisfactory condition and will maintained in this condition for the duration of ownership

Head of Service makes the decision whether the property is 'provisionally surplus' and, if so, 'sponsors' the proposal for a corporate decision.

STAGE 2 -consult with Senior Leadership Team and other Heads of Service if the recommended 'provisionally surplus' property can be corporately declared 'surplus'.

Head of Service of 'promoting' Service sends out attached provisional surplus property report (Appendix 1) to all relevant Heads of Service with a minimum deadline of 6 weeks for their Services response.

Each relevant Head of Service is responsible for consulting the relevant staff in their Service and providing a whole Service response to the sponsoring Head of Service.

Responses should include:

- A detailed description of any relevant factors not covered in the Provisionally Surplus Report that the Service is concerned about and wishes to discuss.
- What are the perceived risks and level of risk to the property that could be compromised by an 'inappropriate' future owner
- Advice as to whether additional public designations needs to be placed on the property before disposal (e.g. access and rights of way, local nature reserve status, TPO's)
- Advice as to whether additional legal covenants need to be placed on the property before disposal.

STAGE 3 - Sponsoring Head of Service decides whether an internal meeting is required to resolve any matters

The 'sponsoring' Head of Service analyses other Heads of Service responses and decides whether an internal 'face –to - face' meeting is appropriate to resolve any conflicting advice given and attempt to resolve. The face- to- face meeting could be with just one or a number of Service representatives. Heads of Service will attend themselves or nominate a relevant specialist to speak on behalf of their Service.

If cannot be resolved, refer the matter to relevant Directors to decide whether the property is declared surplus.

STAGE 4 – Sponsoring Head of Service decides how the property is disposed of:

In order to protect and enhance the property under future ownership, the sponsoring Head of Service to consider how the property is best disposed of. Advertisement on the open market would be the standard approach.

However, in some circumstances, disposals may be justified without open advertisement. Any proposed disposal that is not based on open market disposal and which may therefore result in a disposal at an undervalue must be the subject of a report to Resource and Performance Committee to approve the alternative disposal route, whatever the value of the property. The following may be considered as exceptions if fully justified:

- a) In circumstances where the statutory purposes of the Authority can best be furthered by disposal to a limited category of purchasers, the Authority may invite tenders from a select list of parties (or in exceptional circumstances a single party) identified by reference to relevant criteria pertinent to the asset in question. The relevant criteria in each case should be agreed following consultation with relevant officers;
- b) The land to be disposed of is relatively small in size and an adjoining or closely located landowner(s) is (are) the only potential or likely purchaser(s);
- c) The nature of the Authority's land ownership and that of the surrounding land ownership is such that the land must be sold to adjoining or surrounding landowners if best consideration is to be obtained;
- d) There may be a right of pre-emption or reversion or other rights of former owners, which prohibit sale on the open market.
- e) Where a 'special purchaser' has been identified i.e. one who is prepared to pay a premium for the site over and above the market value.
- f) Exchange of land - Disposal by exchange of land will be appropriate when it will achieve best consideration for the Authority and is advantageous to the Authority and other parties to exchange land in their ownership. The exchange of land will usually be equal in value. However, any inequality in land value may be compensated for by the receipt of a balancing payment or other means of consideration as appropriate. In such circumstances, the Authority will always obtain an independent valuation to verify that "best consideration" will be obtained.

In the above circumstances (a) – (f), the Sponsoring Head of Service could recommend one of the following options.

- Targeting a limited category of purchasers
- Negotiation with one particular purchaser

STAGE 5 – Sponsoring Head of Service agrees with specialists what covenants (if any) need to put on the disposal

At this stage, it would be appropriate to consider if any detailed restrictive (or positive?) covenants need to be placed on the property. The Sponsoring Head of Service will need to ensure that the case- worker consults with all the relevant Authority specialists and with Legal Service to agree draft covenants to be included in the sale package.

STAGE 6 – Sponsoring Head of Service decides on method of disposal

1. Open Market Method (for freehold or leasehold disposal)

- a) Private Treaty
- b) Informal Tender
- c) Formal Tender
- d) Public Auction

2. By ‘limited marketing’ to a targeted category of purchaser with appropriate evaluation criteria

3. By Community Asset transfer to a single party

Details, advantages and disadvantages of methods a) to d) are available at Appendix 1 of the Asset Disposal Procedure

STAGE 7–Sponsoring Head of Service to consult with Senior Leadership Team and other Heads of Service that they agree to the decisions made in Stages 4, 5 and 6 above

This is an additional ‘double checking’ stage to ensure that there is ‘corporate’ agreement and sign off to the disposal.

STAGE 8 – Sponsoring Head of Service ensures that all necessary internal approvals are obtained

The Sponsoring Head of Service may delegate this task to the case -worker but will need to ensure that Standing Order requirements are complied with. It is likely that many proposed disposals will need Programme and Resources Committee approval as an ‘allowable exception’ to an open market disposal. The allowable exceptions which may result in the land being disposed of at an ‘undervalue’ are listed at paragraph 4.7 of the Asset Disposal Procedure.

The Committee must be made aware of the following:

- a) the justification for the proposal;
- b) how the proposal satisfies the terms of the Local Government Act 1972 General Disposal Consent (England) 2003 (the General Disposal Consent), namely:
 - i) the disposal is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of the whole or any part of the area or any persons resident or present in the area, and
 - ii) the undervalue is less than £2m
- c) a valuation of the land following the advice provided in the Technical Appendix to the General Disposal Consent

The 'template' attached to this Procedure Note must be used on all occasions for disposals.

STAGE 9- Sponsoring Head of Service carries out consultation process with external stakeholders

Sponsoring Head of Service working with Head of Marketing and Communications agrees an external Communications Plan to be 'rolled out' with relevant 'stakeholders' before marketing and/or negotiations take place. Head of Service and Head of Marketing and Communications decide who the relevant 'stakeholders' are on a case by case basis.

Relevant 'stakeholders' could include:

- Parish Council or Parish Meeting
- Peak District Local Access Forum
- Council for the Protection of Rural England (CPRE)
- Friends of the Peak District
- Specialist interests organisations
- Local relevant Trusts etc.

A Communications Plan for the disposal of each property will need to 'signed off' by the Sponsoring Head of Service and the Head of Marketing and Communications. Lead contacts for media interest and community liaison should be nominated and conveyed to all external stakeholders identified.

STAGE 10 – Case passed by the Sponsoring Head of Service to a property professional to implement in close coordination with Legal Service.

The property professional will become the sole point of contact and coordinator for the process at this stage. Any internal or external issues that are raised need to pass to the professional without action on them. The professional will then seek the necessary advice needed to respond. The property professional will decide with the Sponsoring Head of Service who is the appropriate member of staff to respond in each case.

STAGE 11 – Disposal completed by Legal Service.

