

**SCRUTINY COMMISSION FOR ENVIRONMENT &
REGENERATION**

REVIEW OF SALE OF COUNCIL ASSETS

NOVEMBER 2008

1 – FOREWORD

- 1.1 In February 2008, the Council sold a number of assets from the Property Investment Portfolio including land, garages and business units. The Scrutiny Commission decided to set up a working group to look at the process that had been followed as a number of members had raised concerns. We used the experience of the February sale as a recent case study to inform our review of the process for sale of assets as a whole.
- 1.2 Our objectives were:
- To understand how land and buildings in the Council's Property Investment Portfolio are reviewed to inform the sale of assets and to maintain sustainable growth
 - To understand the consultation process for sale of Council assets, including internally with members of the Council and officers, and externally with Parish and Town Councils and tenants
 - To make recommendations for improvement to the Council's Cabinet based on our findings.
- 1.3 We met with officers from the Council's Asset & Property Management (Estates & Investments) business unit to talk about the Council's land and property holdings and the process for sale of these. We asked all members of the Council and all Parish and Town Councils for their views on how the Council consults them on the sale of assets. We also reviewed the Council's procedure for sale of assets.
- 1.4 Based on the information we have gathered and our experiences in the February sale, we have made a number of recommendations in Section 5 of this report that we think will improve the process for sale of Council assets in future. The main areas of improvement that we have identified are in the consultation that takes place before a sale and in ensuring that there is sufficient opportunity for local people to make purchases.
- 1.5 Our recommendations will be presented to the Council's Cabinet for consideration. For those recommendations that are accepted by the Cabinet, we will monitor the progress made to implement them.

Councillor Alan Mackenzie
Vice Chairman – Scrutiny Commission for Environment & Regeneration

Members of review group:

- Councillor Alan Mackenzie
- Councillor Gill Green
- Councillor Hilda Rhodes
- Councillor Louise Lomax
- Councillor Vic Tonks
- Councillor Clive Mason

2 – PROCESS FOR SALE OF COUNCIL ASSETS

- 2.1 The Council's Asset & Property Management Service Area is responsible for managing the Council's land and property holdings, including management of operational property and the Property Investment Portfolio, and the acquisition and sale of land and property.
- 2.2 The Council's operational property includes around 160 buildings where the Council delivers services, such as schools, libraries and leisure centres. As such, assets within the operational holdings are not held for income generation purposes. Generally, the sale of operational properties is driven by changes in service delivery and maximising the use of Council assets, for example where a school population is moved to a new build school as part of an amalgamation of school provision. When operational properties are sold, the income goes into the Council's central capital budget.
- 2.3 Our review focussed largely on the Property Investment Portfolio (PIP). The PIP comprises around 900 buildings across 270 sites. Only income-generating assets are held in the PIP. These buildings are rented out to contribute to the annual income target set for the PIP as part of the Council's budget process. In 2007/08 this target was £6.28million.
- 2.4 Asset & Property Management also handles requests for the sale of areas of open land owned by the Council which residents want to purchase as extensions to their gardens.
- 2.5 The Asset & Property Management Service Area gathers and holds a range of information on all of the Council's properties including condition surveys, suitability surveys, disabled access audits, energy audits and maintenance cost information. This enables a long term view to be taken on the sustainability of assets. If an asset is not sustainable in the long term, a decision is taken as to whether to keep the asset as it is, invest in improving it, or dispose of it. The Hadley Park Road Industrial Estate is an example of where the Council invested in a poor quality and unsustainable asset to improve the units and provide a sustainable income base.
- 2.6 The primary consideration for retaining or disposing of assets within the PIP is their ability to generate income. When PIP properties are sold, the income received is reinvested into stronger performing assets with potential for capital growth. As part of the considerations for disposing of assets, A&PM will assess the development potential of the site. However, properties are not always advertised for sale with planning permission attached as gaining planning permission is a costly and lengthy process, and in some cases, the costs could be significant in relation to the potential selling price. When assets are sold without planning permission attached, the sales particulars make it clear that

potential purchasers should make their own enquiries as to the full development potential of the site in question.

- 2.7 There is a procedure in place relating to the sale of assets.
- Once ownership has been confirmed, enquiries will be made with Development & Design (Planning & Environment service area) to establish the best use for the property and whether to submit an outline planning application for change of use. The necessary surveys will then be undertaken e.g. ecological surveys, geotechnical assessments, urban design and transport assessment. Ward Members, Parish and Town Councils are notified before an application for change of use is submitted.
 - Approval is then sought from the Head of Asset & Property Management and Director of Environment & Regeneration. The Head of Asset & Property Management has delegated authority to authorise sale of assets valued up to £50k for Operational Property and any property in the Property Investment Portfolio, following consultation with the Leader or Deputy Leader. This allows A&PM to respond to market conditions in the same way as the private sector ensuring the Council are competitive in the market place. Where assets are valued over £50k for Operational Properties the sale must be agreed by the Cabinet.
 - On receipt of Planning consent, where applicable, the sales particulars and information pack are prepared, adverts are placed and a "For Sale" sign erected.
 - Ward Members, Parish and Town Councils and tenants are notified of the sale and sent a copy of the sales particulars for information. The sales particulars are also sent to any known or potential interested parties.
 - If it has been decided that an auction is the most appropriate method of sale, the sales instructions are sent to the selected auction company. Alternatively, a surveyor will negotiate and agree the best offer with potential purchasers.
- 2.8 There is a separate section on the procedure for disposals which covers garden extensions specifically.
- When an application is received, a Council surveyor is instructed to carry out a site inspection for valuation purposes. The applicant is contacted to request £100 as part deposit.
 - When the deposit is received, A&PM will contact Environmental Maintenance, Highways and Planning services for comments, if their responses are positive, the relevant ward member(s) will then be contacted for their comments.
 - If no objections are received, a further letter will be sent to the applicant and the sale will be processed.

3 – VIEWS OF BOROUGH COUNCILLORS

- 3.1 We invited all members of the Council to submit their views on the Council's approach to consulting with members when selling assets, including positive aspects of the process and any aspects that need improvement. 10 members responded from across the political groups on the Council and from a variety of wards. There were a number of key messages that came through these responses, and the majority of points made were echoed by many of the Councillors that responded.
- 3.2 Some of the key points raised were:
- Members should be consulted before assets are agreed for disposal, with plenty of notice to submit their views
 - Members should then be informed when it has been agreed that assets will to be disposed of, so that they are able to deal efficiently with enquiries from residents. It would also be helpful if members could have a copy of the letter posted out to residents, to help present an image of the Council working together
 - The consultation process should be more open and transparent, and not be based on the assumption that assets will be sold – it should be genuine consultation about current use and value to the community, and potential alternative uses
 - Residents should be given more notice so that they have opportunity to prepare to acquire the assets if they wish – the Council's first priority should be to keep opportunity local
 - Parish Councils should also be consulted for their knowledge of the value of the assets to the local community and to give them the opportunity should they wish to purchase assets for their community value
 - There should be information on how to make representation to stop an asset sale – some members were able to stop a sale, but others were not
 - Disposal of assets above a certain value should be agreed by the Cabinet
 - Agree that the Council needs to review the performance of assets held – information on losses and gains achieved by Council assets should be available to members throughout the year
 - Information should be available on the amount raised by sale of assets and what this has been reinvested into
 - The leases on some of the properties are not protected as was promised to tenants prior to sale
 - Some felt that auctions outside of the Telford area are not a good idea, and others felt that if assets are to be sold by auction, they should be advertised locally to give local people a chance to invest in their area

- If there is potential to increase the value of an asset by selling it with planning permission attached, the Council should apply for planning permission prior to the sale
- Sale of assets should include consideration of corporate priorities and plans rather than being solely motivated by income generation – sometimes pieces of land have a greater potential than selling them on an ad hoc basis, and this could be identified by improving consultation within the Council and with members, who are aware of the potential of corporate assets on the ground in a way that officers sometimes aren't

4 – VIEWS OF PARISH & TOWN COUNCILS

4.1 We invited all Parish and Town Councils to submit their views on the Council's approach to consulting them on sale of assets in their area, and how they think improvements could be made. 11 Councils responded. 3 of these stated that they had not been consulted but no assets in their parish had been sold. The remaining 8 stated that they had not been consulted despite sales taking place in their parish. Their comments are summarised below.

- Strong feeling that Parish Councils should be consulted when assets within their area are to be sold – they should not have to find out through residents and the press
- Would like further information of what assets within the parish are owned by the Council
- Most of the plots sold in February would have been bought for development speculation and if they had been sold with outline planning permission attached, the value of the assets would have increased considerably
- A more open consultation process should be undertaken with Parish Councils, through which they may be able to contribute valuable local knowledge and represent the views of local people
- Parish Councils may in some cases be able to suggest alternative ways of taking advantage of the value of assets
- Recognise that the wishes of the community cannot always be met, but if this is the case, then the Council should feed back why
- Community facilities are better owned by bodies closest to the users
- There should be a predisposition to maintaining all Council-owned buildings and land in local ownership used for community purposes
- Local ownership can attract greater resources as charitable bodies or voluntary work and action
- The sale of lots did not tie in with Telford & Wrekin Council's other plans for the area
- Parish Councils and Regeneration Partnerships or similar should be consulted so as not to undermine work that is already in progress
- Sale of garage plots for change of use will lead to an increase in kerbside parking or parking on front gardens with the resultant environmental of more hard surfacing
- Some of the plots on the original auction list were withdrawn after local representations were made, but not all parish councils knew about this – there should be prompt consultation.

5 – CONCLUSIONS & RECOMMENDATIONS

We have divided our recommendations into 3 broad headings which are the main areas we have looked at for this review – consultation, procedure for sales, and information.

5.1 Consultation

- 5.1.1 Ward members and Parish and Town Councils could be an invaluable source of local information to Asset & Property Management when considering potential change of use and sale of Council assets. Members can indicate any wider implications to the local community of selling the asset, and could give some ideas on potential alternative uses or development potential. Ward members and Parish and Town Councils were not properly consulted on the February sale. The procedure has since been amended to ensure that members are included when assets in the PIP are processed for sale by APM.
- 5.1.2 Disposal of assets by Asset & Property Management can originate from all areas of Council activities. It is Asset & Property Management responsibility to advise their client and the Council on all matters relating to any potential disposal of the asset including obtaining Best Value. A decision is then made by the client to proceed with a disposal following due process. There is currently no procedure for alerting the relevant ward member(s) that such assets are being considered for sale. They would be consulted as part of the usual APM procedure if a sale were to proceed, but it is important that appropriate members are made aware before this decision is taken.

Recommendation 1:

Asset & Property Management should notify relevant ward members and the Cabinet Member for Regeneration on all asset sales, including when they are notified by another Council service area to assess potential for sale of a Council asset outside of the Property Investment Portfolio.

- 5.1.3 The current consultation procedure for garden sales includes the relevant ward member(s) only after a part deposit has been taken from the applicant, and officers from key Council service areas have been consulted. Ward members should be consulted at the same time as the internal consultation takes place so that they have sufficient time to submit comments and are aware of the potential sale should they be contacted directly by the applicant.

Recommendation 2:

That the consultation procedure for garden sales is amended to state that ward members are consulted at the same time as the Environmental Maintenance, Highways and Planning services, and given sufficient time to respond before the site survey is arranged and charged to the applicant.

5.1.4 We felt that there is insufficient communication between the Council's Asset & Property Management Unit and planning officers in the Development & Design unit. Without adequate consultation with planning officers who can advise on the importance of particular sites in relation to the Council's strategic plans such as the Local Development Framework, large amounts of valuable open space could be eroded.

Recommendation 3:

Liaison between Asset & Property Management and Development & Design should be improved to ensure that strategic planning issues are considered and to help prevent areas of open land, wildlife areas etc, from being eroded as sales are processed on an irregular basis.

5.1.5 Some of the properties sold in the February sale were sold with sitting tenants who after the sale were given short notice to vacate. Some assets are important to the local community e.g. garages where there is limited parking available, or a piece of land in a housing estate which is informally used as a play area for children. The Council should give the opportunity to purchase an asset to those who are currently using it, to keep it in the same use for the benefit of the community. Any sale would have to be made with conditions attached to ensure that the use did remain the same. In these circumstances, the surveyor negotiating the sale should be able to accept a bid at the lowest market valuation rather than pursuing the highest bid.

Recommendation 4:

Existing leaseholders and/or interested residents should be given the first opportunity to purchase any public amenity assets to keep the amenity available to the local community, if they are able to meet the lowest valuation i.e. even if a higher price could be achieved on the open market. Conditions should be attached to the sale to ensure that the usage remains the same.

5.2. Procedure for sales

5.2.1 Currently, the main driver for the Property Investment Portfolio is the annual income target. There are other considerations that should be taken into account such as regeneration, proven community value and social value of assets. However, although Asset & Property Management do currently consult other areas of the Council before the decision is taken to dispose of an asset, they currently have no corporately approved scheme by which to evaluate the competing demands and benefits.

Recommendation 5:

That the Cabinet request that Asset & Property Management bring forward a set of criteria to support decision making for asset disposal or investment.

5.2.2 The disposal procedure states that the Council's Cabinet must agree to any individual asset sales which are over £50k for Operational property. For assets in the PIP, the Head of Asset & Property Management has delegated powers to approve all sales, after consultation with the Corporate Director: Environment & Regeneration and the Leader or Deputy Leader of the Council. Individual sales of £500k or more will be published on the Council's Forward Plan as Key Decisions. In the February sale, no individual property was valued at higher than £500k therefore the sale was not published as a Key Decision nor subject to approval at Cabinet. However, the total sum of the assets exceeded £500k and the decision to sell was therefore significant.

5.2.3 We do not wish to diminish the ability of the Head of Asset & Property Management to achieve the best price by responding to the market. However, in such circumstances where a large number of assets are sold at once and the impact of the sale is significant, there should be a more open decision making process for approving the sale, to improve public accountability.

Recommendation 6:

That where a number of assets are to be disposed of in one sale, the decision to dispose of these assets should be subject to approval by the Cabinet Member for Regeneration who should also decide whether the impact of the sale requires the decision to be published as a Key Decision.

5.2.4 We recognise that it may be beneficial or necessary to hold an auction at a location away from Telford to respond to the market. However, the auction held in Haydock in February was not well publicised and did not encourage local interest. Regardless of where an auction is being held, for openness and accountability and to enable greater local interest, there should be ample local publicity.

Recommendation 7:

Auctions taking place to sell Council assets should be widely advertised in the Telford & Wrekin area, for example, in the local press and on the Council website.

5.2.5 Members may act as a line of communication between residents and Asset & Property Management in matters relating to individual asset sales but should not become too involved in the process as they may

be at risk of contravening the standards expected of members. There should be clarity for members as to what is expected of them, so that they are clear on their role before being contacted by residents and potentially being put in a difficult position.

- 5.2.6 During this review we have informally asked the Head of Asset & Property Management to arrange a Members Information Seminar to brief all members on the role of Asset & Property Management and the role of elected members in the sale of assets, renewing leases and managing the Property Portfolio. There should also be a protocol developed to make the role of members in this process clear.

Recommendation 8:

That a clear and specific protocol should be developed to outline the boundaries of the role of elected members in sale of assets and renewal of business leases.

5.3 Information

- 5.3.1 There are pieces of land that are in Council ownership but which are the responsibility of units other than Asset & Property Management, for example, Leisure Services or Environmental Maintenance. There are also assets which are owned by other agencies such as the Housing Trust or English Partnerships. In order to respond to enquiries from residents, ward members require information on the ownership of assets within their ward. For assets owned by the Council, members need to know which are included in the Property Investment Portfolio and which are the responsibility of other areas of the Council. Currently, if a member has an enquiry they can contact a member of the Asset & Property Management Team for the information, but would be able to take a more proactive approach if this information were already available to them.

Recommendation 9:

Information on assets in each ward and who is responsible for them should be provided on the Council's intranet Members Information Point.

- 5.3.2 The purpose of selling assets is to dispose of assets which are not performing well and reinvest in assets which will generate greater income. This was not made clear in the publicity around the February sale. There has been no further information about the assets which have been purchased with the income received from the sale.

Recommendation 10:

Information on income received and assets purchased from the sale of other assets should be made available to members.

6 – SUMMARY OF RECOMMENDATIONS

- 6.1 The recommendations are summarised in the table below. We have assigned a priority level to each of the recommendations, and given an indication of the cost.
- 6.2 It is not possible to provide detailed costings for the recommendations within this report without a considerable amount of additional work being undertaken by both scrutiny members and finance officers. However, the recommendations have been placed into one of three categories as follows:-
- Low cost indicates that the recommendation could be funded from within existing resources, although not necessarily in the current year.
 - Medium cost indicates that the recommendation is anticipated to cost up to £10,000 which is not currently budgeted.
 - High cost indicates that the recommendation is expected to cost more than £10,000 which is not currently budgeted.

Recommendation	Indication of cost	Priority level
<p>Recommendation 1: The consultation procedure for disposal of assets should be amended to state that relevant ward members and Parish and Town Councils are consulted at an early stage in the process and given an opportunity to submit comments on local issues, and possible alternative uses for the site, based on their knowledge of the local area.</p>	Low	High
<p>Recommendation 2: That the consultation procedure for garden sales is amended to state that ward members are consulted immediately after the application is received, and given sufficient time to respond before the site survey is arranged and charged to the applicant. The officers outlined in paragraph 5.2.4 of the current procedure should also be consulted before any further work to progress the sale is commenced.</p>	Low	High
<p>Recommendation 3: Liaison between Asset & Property Management and Development & Design should be improved to ensure that strategic planning issues are</p>	Low	High

considered and to help prevent areas of open land, wildlife areas etc, from being eroded as sales are processed on an irregular basis.		
Recommendation 4: Existing leaseholders and/or interested residents should be given the first opportunity to purchase any public amenity assets to keep the amenity available to the local community, if they are able to meet the lowest valuation i.e. even if a higher price could be achieved on the open market. Conditions should be attached to the sale to ensure that the usage remains the same.	High	Medium
Recommendation 5: That the Cabinet approve a set of criteria for Asset & Property Management to utilise in deciding whether to recommend an asset for disposal.	Low	Medium
Recommendation 6: That where a number of assets are to be disposed of in one sale, and the total value of assets will be £500k or more, the decision to dispose of these assets should be subject to approval by the Cabinet.	High	High
Recommendation 7: Auctions taking place to sell Council assets should be widely advertised in the Telford & Wrekin area, for example, in the local press and on the Council website.	Medium	Medium
Recommendation 8: That a clear and specific protocol should be developed to outline the boundaries of the role of elected members in sale of assets and renewal of business leases.	Low	Medium
Recommendation 9: Information on assets in each ward and who is responsible for them should be provided on the Council's intranet Members Information Point.	Low	Low
Recommendation 10: Information on income received and assets purchased from the sale of other assets should be made available to members.	Low	Low

APPENDIX 1 – PROCEDURE FOR DISPOSAL OF ASSETS

QP 16 DISPOSALS

1.0 PURPOSE

To establish a standard procedure for the disposal of land or property as may be required from time to time upon internal client instructions, external application, for regularising ownership or for investment purposes to add to the Property Investment Portfolio.

2.0 SCOPE

The procedure applies to the Head of Asset & Property, and Asset & Property Manager, Surveyors, Estates Technicians and Administration officer.

3.0 REFERENCES

Misrepresentation Act 1967
Property Misdescriptions Act 1991
Section 123 Local Government Act 1972
QP17 : Valuations
QP18 : Property Review
QP21 : Land Terrier - Mapping, Database and Diary

4.0 DEFINITIONS

Property : Includes land, built property and interests in property.
PIP : Property Investment Portfolio
Garden Land Sales : Sales to extend domestic property

5.0 METHOD

5.1 Major Transactions

5.1.1 The surveyor confirms the client's instructions, unless generated by the Unit in which case a note of the instruction is placed on the file.

5.1.2 The surveyor confirms ownership on the Terrier/Deed packet and places plan on file and obtains title details (Report on title where deemed appropriate) from the Legal Services.

5.1.3 The surveyor makes enquiries with Development & Design to establish best use for the property and decides whether to submit an outline planning application for change of use.

- 5.1.4 The surveyor procures the necessary technical surveys, viz desk-top study, ecological and arboriculture surveys, transport assessment, urban design as applicable.
- 5.1.5 Ward Members and Parish Councils are notified prior to a planning application for change of use is submitted.
- 5.1.6 The surveyor or land technician inspects the property and checks trespass, encroachments, occupations and boundary responsibilities that exist in accordance with QP22, including photographs if appropriate and places on file.
- 5.1.7 The surveyor carries out a pre-sale valuation and records on the Valuation Sheet (LPUF10), in accordance with QP17 : Valuations.
- 5.1.8 A Cabinet report is prepared and submitted for operational property disposals over £50,000
- 5.1.9 Once Cabinet Approval or Delegated Authority is obtained the surveyor places a copy of the Approval on file
- 5.1.10 Where the property is in PIP. the Head of Asset & Property Management seeks approval from the Director of Environment & regeneration followed by the Leader or Deputy Leader.
- 5.1.11 Notify Head of Department of availability of land or property with 14 days to respond.
- 5.1.12 The surveyor informs the instructing client of progress at each stage as requested.
- 5.1.13 On receipt of Planning Permission where applicable, the surveyor prepares sales particulars and a sales information pack after having the draft approved by the Client or for internal disposals the Head of Asset & Property and after having decided on appropriate method of disposal, places an advert in appropriate media and arranges for the erection of a 'For Sale' board.
- 5.1.14 Ward and Parish Councils are notified of the disposal and a copy of the sales particulars are sent for information.
- 5.1.15 The surveyor sends particulars to enquirers, and known/potential interested parties. The Technical Assistant produces a list of potential customers from the database, for the Surveyor to recommend. Sales Packs are sent out on request from potential buyers.

- 5.1.16 The surveyor negotiates and agrees best offer (subject to contract) and confirms terms of sale in writing with purchaser. In cases where the surveyor decides on Auction as being the appropriate means of disposal the sales instructions are sent to the selected Auction company.
- 5.1.17 The surveyor instructs the Legal Services on Standard Memorandum LPUM14.
- 5.1.18 Letters are be sent to all unsuccessful bidders and retained on file.
- 5.1.19 All transactions are recorded by the Asset & Property Manager if appropriate for the Investment Programme, or if over £5000 and relevant to the Land Disposal Programme. The client is informed where applicable.
- 5.1.20 The Technical Assistant amends the Mapping System in accordance with procedure QP21 and the surveyor places the completion notice on file.
- 5.1.21 The surveyor advises any occupiers of completion.

5.2 Garden Transactions

- 5.2.1 Upon receipt of an application, the Administrative Officer checks ownership details from the Terrier.
- 5.2.2 The Administrative Officer instructs the Graduate surveyor to carry out a site inspection for valuation purposes following which LPUF10 (Valuation Sheet) is duly completed and placed on file.
- 5.2.3 The Administrative Officer sends letter LPUL46 to the applicant, briefly outlining the terms and requesting a payment of £100 as part deposit.
- 5.2.4 Upon receipt of the deposit, the Administrative Officer emails Environmental Maintenance, Highways and Planning services for comments.
- 5.2.5 If all responses are affirmative, the Administrative Officer writes to the relevant Ward Member(s) seeking comments in support or otherwise of the services recommendations.
- 5.2.6 If no objections are received, Administrative Officer sends letter LPUL57, setting out the main terms and conditions for agreement by the applicant.
- 5.2.7 Once confirmation of the terms is received back from the applicant, Administrative Officer instructs Legal Services to complete, on Memo LPUM14.

APPENDIX 2 – ACKNOWLEDGEMENTS

We would like to thank the following people who contributed their time and views to this review:

- Chetwynd Aston & Woodcote Parish Council
- Wellington Town Council
- Church Aston Parish Council
- Lilleshall & Donnington Parish Council
- Lawley & Overdale Parish Council
- Wrockwardine Wood & Trench Parish Council
- Hadley & Leegomery Parish Council
- Ketley Parish Council
- Tibberton Parish Council
- Oakengates Town Council
- The Gorge Parish Council
- Councillor Richard Overton
- Councillor Bob Groom
- Councillor Karen Tomlinson
- Councillor Liz Clare
- Councillor Jayne Greenaway
- Councillor Eric Carter
- Councillor Louise Lomax
- Councillor Angela McClements
- Councillor Charles Smith
- Councillor Keith Austin
- David Sidaway – Head of Asset & Property Management
- Alan Fox – Manager : Asset & Property Management (Estates & Investment)
- Councillor Eric Carter – Cabinet Member: Regeneration.