

Report of the Strategic Director of Regeneration & Culture to the meeting of the Governance & Audit Committee to be held on 24th July 2015.

Subject:

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The Disposal of Land and Property

Summary statement:

At its meeting of 12th February the Corporate Overview & Scrutiny Committee requested that the Governance and Audit Committee considers during its review of the Council's Constitution whether major asset disposals should be key decision of Council.

This report sets out current arrangements for decisions to be made about the disposal of land and property and invites the views of the committee.

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Overview & Scrutiny Area:
Regeneration & Economy



1. SUMMARY

- 1.1 At its meeting of 12th February 2015 the Corporate Overview & Scrutiny Committee requested that the Governance and Audit Committee consider during its review of the Council's Constitution whether major asset disposals should be key decisions of Council.
- 1.2 This report sets out current arrangements for decisions to be made about the disposal of land and property and invites the views of the Committee.

2. BACKGROUND

- 2.1 The functions of the Executive and Council are set out in legislation. Part 1A of the Local Government Act 2000 provides that where authorities operate executive arrangements (Leader and Cabinet or Mayor and Cabinet), all functions are to be exercised by the executive unless otherwise specified either in that Act, any enactment passed after it, or specified in regulations made under section 9D of that Act.
- 2.2 Article 15.5 of the Council's constitution (the constitution) defines a key decision as being an Executive decision that satisfies either of the following criteria;
 - 2.2.1 It will result in expenditure or savings with a full year effect of more than £250,000, and/or it is likely to have a significant impact on communities in two or more wards but does not include any decision:
 - 2.2.1.1 Taken as a consequence of implementing an earlier key decision.
 - 2.2.1.2 Concerning a bid for funding
 - 2.2.1.3 Taken on expenditure within the budget approved by the Council on items necessary for normal operational service delivery.
 - 2.3.1 Because the sale of land and property usually generates capital income rather than resulting in expenditure or savings of more than £250,000 the definition of a key decision has been interpreted as not being applicable to property disposals. Instead, paragraphs 28 and 29 of the Financial Regulations set out procedures relating to the disposal of land and property and provide that;
 - 2.3.2 Appropriate Officers must consult with the Strategic Director Regeneration and Culture before acquiring or disposing of land or buildings by whatever means (purchase, sale, lease, tenancy or licence). The Strategic Director Regeneration and Culture shall ensure compliance with all relevant current legislation, policies and protocols
 - 2.3.3 The Director of Finance shall be consulted on the annual asset disposal plan and will approve all asset disposals before contract exchange.

2.3.4 When disposing of any other asset, Appropriate Officers must ensure the Council's Land and Property Disposal Policy and the Community Asset Transfer Policy is followed.

2.4 Land and property is brought forward for sale through one of four routes;

1. Property Programme operational estate rationalisation; reported to Executive and Corporate Overview & Scrutiny committee.
2. Other council projects e.g., the Affordable Housing Programme, Canal Road Masterplan; referred to the Executive as part of the scheme approval process.
3. By statute e.g., Academy transfers, allotment transfers to parish councils; the council has no discretion in relation to such disposals.
4. The sale of surplus property. – 104 land and property assets were sold during the period 2013 – 2015 of which 9 (8.7%) realised a capital receipt in excess of £250,000.

2.5 The following table provides a summary of the number and value of land and property disposals dealt with by Estate Management for the period 2012/2013 – 2014/2015 and identifies the number of sales with values in excess of £250,000 and £500,000.

Year	No. of sales	Total value	> £250,000	>£500,000	Comment
12/13	55	£3,491,661	4 sales with a value of £1,517,000	1 sale with a value of £632,000	3 development sites plus 1 former operational building
13/14	44	£4,365,294	6 sales with a value of £2,452,328	2 sales with a value of £1,026,850	3 former operational buildings, 1 development site and 2 tenanted premises, house plot sales
14/15	41	£3,810,049	4 sales with a value of £1,637,544	1 sale with a value of £550,000	2 former operational buildings, 1 development site and 1 house plot.

2.6 The closure and sale of the operational buildings referred to above together with the sale of the tenanted property and development sites were reported to the Executive and Corporate Overview and Scrutiny committee as part of the Property Programme reporting arrangements. The House plots referred to form part of the council's Affordable Housing

Programme which was first reported to and approved by the Executive at its meeting of 20th October 2009.

3. OTHER CONSIDERATIONS

3.1 Government published the Draft Local Authorities (Functions and Responsibilities) (England) Regulations 2015 in January 2015 which proposed changes to the powers of council Executives and was subject to consultation for the period 29th January – 6th March 2015.

3.2 Schedule 4 of the draft Regulations propose that any decision to dispose of an asset or to grant a long lease in respect of that asset should not be a function of the executive where the value of that asset exceeds a defined sum. Subject to views, the draft sets the threshold at £500,000.

3.3 The results of the consultation have not yet been published.

4. OPTIONS

1. Continue with current arrangements and await the implementation of any changes that come into effect as a result of the Draft Local Authorities (Functions and Responsibilities) (England) Regulations 2015 consultation.
2. Extend the definition of a key decision in the Constitution so as to include the disposal of any asset or the granting of any long lease in respect of an asset where the value of the asset exceeds £250,000 by making the amendments set out in Appendix 1

Option1 is the preferred option and ensures that any change to current arrangements complies with statutory requirements.

5. FINANCIAL & RESOURCE APPRAISAL

The report is about the arrangements for the exercising of the functions for the Executive, there are no specific budgetary implications arising from the recommendations.

6. RISK MANAGEMENT AND GOVERNANCE ISSUES

None

7. LEGAL APPRAISAL

- The relevant legal issues are set out above. .

8. OTHER IMPLICATIONS

8.1 EQUALITY & DIVERSITY

None

8.2 SUSTAINABILITY IMPLICATIONS

➤ None]

8.3 GREENHOUSE GAS EMISSIONS IMPACTS

None

8.4 COMMUNITY SAFETY IMPLICATIONS

None

8.5 HUMAN RIGHTS ACT

None

8.6 TRADE UNION

None

8.7 WARD IMPLICATIONS

None

9. NOT FOR PUBLICATION DOCUMENTS

None

10. RECOMMENDATIONS

That Committee recommend to full Council that the current arrangements continue and that the situation be reviewed upon the implementation of any changes that come into effect as a result of the Draft Local Authorities (Functions and Responsibilities) (England) Regulations 2015 consultation..

11. APPENDICES

Appendix – Draft Amendments to Article 15 of the Constitution

12. BACKGROUND DOCUMENTS

1. Local Government Act 2000
2. City of Bradford MDC Constitution of the Council and Executive Arrangements

(Version 3.0 published December 2014)

3. City of Bradford Land and Property Disposal Policy and the Community Asset Transfer Policy 2012
4. Draft Local Authorities (Functions and Responsibilities) (England) Regulations 2015

APPENDIX 1

Draft Amendments to Article 15 of the Constitution (Decision making)

Current Wording

15.5 A key decision is an executive decision that satisfies either of the following criteria:

15.5.1 It will result in expenditure or savings with a full year effect of more than £250,000, and/or it is likely to have a significant impact on communities in two or more wards but does not include any decision:

15.5.1.1 Taken as a consequence of implementing an earlier key decision.

15.5.1.2 Concerning a bid for funding.

15.5.1.3 Taken on expenditure within the budget approved by Council on items necessary for normal operational service delivery.

Draft Amended Wording

15.5 A key decision is an executive decision that satisfies any of the following criteria:

15.5.1 It will result in expenditure or savings with a full year effect of more than £250,000, OR it involves the disposal of any asset or the granting of any long lease in respect of an asset where the value of the asset exceeds £250,000 OR it is likely to have a significant impact on communities in two or more wards but does not include any decision:

15.5.1.1 Taken as a consequence of implementing an earlier key decision.

15.5.1.2 Concerning a bid for funding.

15.5.1.3 Taken on expenditure within the budget approved by Council on items necessary for normal operational service delivery.