

Report of the Strategic Director Corporate Resources to the meeting of the Executive to be held on 5 March 2024

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Subject:

Disposals Programme

Summary statement:

For the Executive to consider and agree to an ongoing disposal programme of surplus to requirements property and land assets for the purposes of generating capital receipts. The Programme will identify the methodology for due diligence determination, of how assets will be brought forward for consideration for disposal, details of assets to be disposed of, timescales and estimated capital receipt generation together with appropriate governance for monitoring the programme.

Equality & Diversity:

Consideration has been given to the impacts on Equality and Diversity and as the Programme deals with property assets that are surplus or where service activity is no longer required it is considered that there a minimum equality impacts to be considered beyond the cessation of activities within the asset.

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Overview & Scrutiny Area:
Corporate Resources

1 SUMMARY

This report seeks Executive approval to agree to an ongoing disposal program of surplus to requirements property and land assets for the purposes of generating capital receipts to support the Medium-Term Financial Strategy.

The Programme will identify the methodology for due diligence determination, of how assets will be brought forward for consideration for disposal and how Member authority will be sought prior to any disposal.

The Programme will identify methodology for disposals, details of assets to be disposed of, timescales and estimated capital receipt generation together with appropriate governance for monitoring the program.

2 BACKGROUND

Introduction

- 2.1 The Executive is requested to consider and note the contents of this report and to approve the recommendations.
- 2.2 The City of Bradford Metropolitan District Council (BMDC) is a large and diverse local authority delivering a wide-ranging number of services. To support the district and manage the diversity of the services delivered the Council currently own a varied property and land portfolio which is held within the Council's general fund.
- 2.3 As reported to the Executive in January there is a structural budget gap of c£120m in 2023-24 inclusive of a c£73m overspend on a budget that already includes c£48m of one-off reserves – in other words current expenditure is above the resources available by at least this amount.
- 2.4 It is imperative for the Council to develop and realise a plan to attain financial sustainability. The emergency response work carried out since then has identified that this will require significant transformation to all aspects of the Council's activities and is likely to take up to 5 years to deliver.
- 2.5 The Council has already exhausted its usable reserves meaning that it is unable to balance the budget for next year without Exceptional Financial Support (EFS) from Government, as reported to the Executive in December 2023, which is currently being sought.
- 2.6 The government has been asked to support the Council through a capitalisation direction, which would allow the Council to use capital receipts from the disposal of assets to minimise any borrowing requirement associated with the directive.
- 2.7 The Council's asset disposal programme will be required to support transformation costs including redundancies, this will be subject to further quantification as the Transformation Plan is developed in the near term.
- 2.8 Consequently there is now a requirement, as part of the Council's Medium Term Financial Strategy (MTFS) to generate significant Capital Receipts during 2024/5 and 2025/6 and beyond as the programme is developed out further. The intention is to initially generate £60M during 2024/5 and 2025/6 with further work during this period to bring forward more disposal opportunities for either

incorporation into this time frame or for future years. This will be reported as part of the ongoing reporting cycle detailed at 2.41 below.

Capitalisation Direction

- 2.9 Accounting practice does not allow capital funding sources to be used for revenue expenditure purposes i.e., day-to-day expenditure including salaries, utility bills and service contract payments.
- 2.10 A capitalisation direction is a means for the government to permit a Council to not comply with the above accounting practice by granting permission, with specific conditions, for capital funding, such as the disposal of assets or external borrowing, to be used for specified revenue expenditure.
- 2.11 The proposed Disposal Programme will look to generate significant Capital Receipts as set out in each of the above financial years subject to further due diligence.
- 2.12 This will enable the Council to ensure that it disposes of property, land and assets in a compliant way, undertaking a thorough evaluation process including appropriate consultation and consideration of alternative uses and ownership structures prior to the release of property, land and assets.

Properties in scope

- 2.13 In order to meet the requirements of the Council's MTFS an initial review of the Council's Property interests has been undertaken to ascertain how significant capital receipts could be delivered.
- 2.14 These various assets are detailed at Appendix A.
- 2.15 It should be noted that each asset and asset group will need to be considered to determine whether the asset should be disposed of or retained.

Other future disposals

- 2.16 Other assets will be added to the programme once they have been evaluated in order to support the MTFS in an ongoing basis.
- 2.17 Further assets may be added to the programme subject to Departmental service delivery reviews which are currently ongoing and being declared surplus to requirements following the outcome of the consultation process of said service delivery review.

Holding Costs

- 2.18 Members should note that whilst assets may be vacated ahead of a disposal, the asset still needs to be secured, maintained, insured and potentially liable for Business Rates. Therefore, until the asset is disposed of there will be a revenue cost to deliver the above-mentioned cost lines.

Due Diligence approach to determination whether to dispose or retain Property Assets.

- 2.19 As part of the decision-making process, the Asset Management team will undertake an asset review and due diligence of each asset under consideration detailed at Appendix A and others that may be brought forward in due course. The review will identify if the asset is surplus or underutilised and should be recommended for disposal.

2.20 This work will be undertaken in conjunction with external professional advisors as detailed below.

2.21 Disposal of Property assets will be made in accordance with the Council's Property Disposal Policy dated Jan 2019.

2.22 In the case of land, the benefit of alternative use for social or economic purposes, such as development for commercial or housing purposes would be considered.

2.23 Information as above will be collated by the asset management team for review as part of this disposal programme. Data to be considered will include, where relevant:

- planning policy – current and potential use of assets
- asset categorisation – the current use and reason for holding.
- asset capital valuation for accounting purposes – current value and materiality issues
- revenue – impact of any changes to the revenue budget
- fabric condition – repairs information, condition surveys
- energy rating – to fit with the Councils carbon management plan.
- social value attributed to the asset – such as community use or support.
- consultation feedback from local ward members
- Health and safety information – fire risk assessments, water hygiene, asbestos, electrical condition and deleterious materials where relevant.
- Consideration for community asset transfer policy
- service strategies
- Legal checks as to Title impediments with mitigation strategies
- return on investment – value for money analysis.

2.24 Investment Assets are unlikely to be available for operational service use or community use and as such will be assessed on the income return to value – i.e., a yield analysis determined against classification investment performance criteria as opposed to the methodology detailed above. However, it should be noted that the hurdle rate of financing a capitalisation direction will probably exceed the yield return on these investments.

Loss of income

2.25 Where the decision following due diligence is made to dispose of an investment property this will result in a loss of revenue income. However, the Determination process detailed above will clarify the exact details and sums involved on each

potential transaction to inform the decision as to dispose or retain and in what form any disposal should take.

2.26 It should be noted that should the Council decide to sell an investment property then any tenant of that property will not be affected as such a sale would not affect the terms of their occupancy of the property.

2.27 The £60M sum is a Net figure. Therefore, any loss of income will need to be made up via other disposals to balance out the loss. In some cases there will also be a revenue saving and such savings will be captured and reported as part of the ongoing reporting cycle detailed at 2.41 below.

Member Engagement and consultation/approval to dispose.

2.28 Decisions on disposals will be fully discussed with the Executive Member of Regeneration, Planning and Highways with the member delegations to authorise such disposals.

2.29 Ward Members views will be sought and considered as part of the decision-making process. In accordance with the Council's Property Disposal Policy, Ward Members will be notified of all proposed land and property disposals in their Wards. If no comments are received the disposal will proceed. Where objections to the proposal are received from Ward Members, the objections will be referred to the relevant Portfolio Holder who will decide in accordance with the decision-making powers set out in the Constitution. Ward Members will be consulted prior to the referral of objections to the Portfolio Holder and be given the opportunity to explain the reason for the objection. Where the disposal is a critical part of an approved corporate strategy the general presumption is that disposals will proceed unless there is very good reason not to.

Estate Strategy

2.30 The Council will need to develop a new Estate Strategy in respect of the composition of its retained estate following the proposed disposal programme and future Departmental service reviews and consultations. However, in order to shape future thinking on our estates the following 5 Strategic Objectives will drive such a strategy. These objectives will also support the Council's decision-making process in terms of evaluation of assets for disposal or retention.

1. To efficiently manage assets for the benefit of the people within the District.
2. To provide accommodation to meet existing and future service needs.
3. To manage and invest in retained assets.
4. To utilise assets to stimulate growth and development.
5. To promote joint working where appropriate with other public bodies.

2.31 The Council also has ambitions for growth and community well-being. While the Council will predominantly be selling assets over the next few years it may also need to buy or rent properties to secure its objectives, this will have to be based on a robust business case to demonstrate the need and viability of such acquisition and to ensure that such a purchase or leasing arrangement has considered all other alternatives.

Community Asset Transfers

- 2.32 Where appropriate, consideration would also be given to the transfer of assets to the community in accordance with the Council's Community Asset Transfer Policy.
- 2.33 In addition the Council recognises the valuable work the Voluntary Sector provides, often from within Council owned assets. Consequently, decisions regarding future provision will be carefully considered and form an important component of the decision-making process.
- 2.34 In some cases where the Council has not charged market rents for such usage we will no longer be unable to continue to do this, however in undertaking such a review the Council fully appreciates that charging rents could make such provision economically difficult for the organisation concerned and will take all such matters into consideration in the circumstances.

External Agency and Professional Services,

- 2.35 In order to ascertain best consideration valuation, various professional property and legal services will be required to undertake option analysis and market appraisals so that the asset in question can be fully appraised.
- 2.36 The Property Asset Disposal Policy allows for a retention of 4% of the Programme to allow for such fees and to cover in-house Property and Legal costs (inc external consultants). Noting that the £60M sum is a net figure. Therefore, the Programme will need to be made up via other disposals to balance out the overall cost of such disposals.
- 2.37 Officers will follow Council Procurement policies and procedures to select professional advice through appropriate frameworks. Due to the urgency of undertaking appraisals and taking sites to market it will be necessary to make a direct award through an appropriate framework to a firm of Chartered Surveyors to undertake the required work, requesting the appointed agent utilises specialist agents as sub-contractors as required (e.g., agricultural agents and local agents). The appointment of Chartered Surveyors will be made in accordance with the Council's Procurement rules.
- 2.38 The selected Chartered Surveyors will provide the Council with advice on the following aspects to ensure that the assets to be disposed of are suitable for disposal and generate the best consideration possible in the marketplace. The following aspects are an indication of the work they will undertake.
- Analysis of local market conditions and needs
 - option appraisal for all land and buildings currently owned by the Council.
 - disposal of Council assets in a way that that delivers levels of capital receipts but still represents value for money, including the development of lots or asset portfolios for sale.
 - arranging condition and site surveys
 - advertising land and property for sale including sales pack.
 - proactively identifying and contacting potential purchasers
 - completing due diligence work on prospective purchasers

- identifying where appropriate potential sub-lease or sale and lease-back arrangements
- negotiating sale prices including potential overage arrangements plus terms and conditions on the Council's behalf
- undertaking value for money assessments and advising on best value
- appointing and liaising with legal advisers, valuers and other advisors etc.
- advising on potential implications of public procurement rules and subsidy controls

2.39 It is recommended that Delegation to award an appropriate consultancy contract in this regard is given to the Strategic Director, Corporate Resources in consultation with the Director of Finance and the Head of Procurement.

2.40 The relevant costs incurred will be reported to Members in the reporting process detailed at below.

Further reporting

2.41 Members will recognise that the delivery of Capital Receipts is integral to the success of the MTFs and therefore it is proposed to report on progress of delivery of the disposals programme on a quarterly basis via update reports through the Financial Budget Monitoring process/reporting cycle.

2.42 The Executive is recommended to agree to this reporting process.

2.43 Members will also be aware that DLHUC will require regular updates on the Disposals Programme as part of the Emergency Assistance package.

3. FINANCIAL & RESOURCE APPRAISAL

3.1 As previously outlined, the Council's financial challenges mean that it will need to maximise asset disposals subject to best value and other criteria outlined in this report.

3.2 The 2024-25 budget is predicted on the Council being able to dispose of c£30m of surplus assets, with similar amounts in coming years to reduce the financing cost of the Capitalisation Directive.

3.3 There will be costs associated with disposal of assets, and legal and other professional fees will be covered by the 4% retention outlined in 2.36. Additionally, there will be costs associated with decommissioning & security of properties that are awaiting sale. These costs will be covered from capital receipts & transformation related budgets where feasible, and they will also be closely monitored and reported on.

3.4 Regarding the investment estate, the 2024-25 budget includes c£2m for loss of income, and this would increase to £2.8m by 2025-26 if all of the in-scope rent generating properties were disposed of. The timing of disposals will impact the actual loss of income.

3.5 Overall, the surplus asset disposal program will form a key plank of the strategy for returning the Council to a financially sustainable position.

- 3.6 Close monitoring of delivery is consequently vital, and hence quarterly updates will be provided to the Executive through the Budget Monitoring reporting process as outlined.
- 3.7 The assets identified in this report should be considered a first phase, and other assets for disposal will need to be identified in the near and medium term. These will also be reported to the Executive and Corporate Overview and Scrutiny Committee through the quarterly Budget Monitoring process.

4. LEGAL APPRAISAL

4.1 In disposing of property assets, the Council needs to consider and comply with the relevant legislation, including Subsidy Control and Financial Regulations and its Constitution.

4.2 The main powers to dispose of land are found in the following legislation:

- S123 of the Local Government Act 1972
- S233 Town and Country Planning Act 1990

These provide that the Council obtain best consideration for disposals, which is defined to include leases granted for a term of 7 years or more, option agreements, easements, reversionary leases and freehold sales.

In determining whether or not to dispose of land for 'less than Best Consideration' the Council should also have regard to its accountability and fiduciary duty to local people.

4.3 In respect of land disposals under s.123 (2) of the Local Government Act 1972 – disposals at less than market value will be considered under the General Disposal Consent (England) 2003 which means that specific consent of the Secretary of State is not required for the disposal of any interest in land which the Council considers will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area and the difference between the market value and actual price paid for the land is less than £2 million (if the difference is more than £2 million then the disposal will require Secretary of State approval).

4.4 There may be other matters to consider and address in respect of any particular property disposal including:

(i) . Proposals to dispose of land classified as public open space will need to be advertised that a disposal is being considered under s. 123 (2A) of the Local Government Act 1972 and any objections must be considered by the Council in deciding whether or not to progress with the proposed disposal.

(ii) In respect of school land and playing fields the Council will also need to consider whether the land is subject to the provisions of Schedule 1 of Academies Act 2010 and section 77 of the School Standards and Framework Act 1998. Such disposals will require consent of the Secretary of State.

5. NOT FOR PUBLICATION DOCUMENTS

Properties in scope valuation estimates, exempt under Paragraph 3 Finance or Business Affairs of Schedule 12A of the Local Government Act 1972 (as amended).

6. RECOMMENDATIONS

That Executive approves the following recommendations.

- 6.1 To consider and approve the contents of this report.
- 6.2 Approve Delegation to award appropriate consultancy contracts in relation to the delivery of the Programme to the Strategic Director, Corporate Resources in consultation with the Director of Finance and the Head of Procurement.
- 6.3 To agree to the reporting process detailed above at 2.42.

APPENDICES

- A Properties in scope including Not for Publication version