

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO CABINET

Date 8th November 2017

1. **HEADING** Update on Asset Management Strategy and Delivery Plan
- Submitted by:** Assets Manager
- Portfolio:** Finance, IT and Customer
- Ward(s) affected:** All

Purpose of the Report

To update members on progress with delivery of the approved Asset Management Strategy (AMS) and to approve the disposal of additional sites, subject to consultation, which are not required to meet Open Spaces and Green Infrastructure purposes in accordance with the current Strategy.

Recommendations

- a) That Cabinet approves the updated Asset Management Strategy and Delivery Plan and agree in principle to the disposal of the sites set out in appendix 1, subject to the relevant consultations being carried and the outcomes being report back to Cabinet.
- b) That officers take the appropriate steps to protect the Council's interests in respect of all its land.
- c) That officers be authorised to take appropriate steps to achieve the principle of residential development of the subject sites prior to any disposal.
- d) That the Leader of the Council writes to the relevant Government Minister or Department to highlight the issues caused by undetermined applications for Village Green status and urging further legislative changes and/or guidance to achieve a better balance between the interests of land owners and other interested parties.

Reasons

The Council has an adopted Asset Management Strategy (AMS) 2015/16-2017/18 which sets out the Council's approach to managing its assets, including the disposal of sites which are surplus to operational requirements and may have alternative uses.

The Open Spaces and Green Infrastructure Strategy has now been adopted and in accordance with the approved AMS, any sites that are not required to meet local standards should be considered, following consultation, for disposal.

1. **Background**

- 1.1 The Council's Capital Strategy and Asset Management Strategy are key documents evidencing the Council's approach to its use of resources. The Asset Management Strategy provides a clear framework for understanding the value and condition of property owned by the Council so that, in turn, investment decisions can be taken to optimise the use of the said land/property to meet the needs of the Borough's residents, businesses and visitors. This Strategy along with the Council's Capital Strategy seeks to demonstrate alignment with, and delivery of, the Council's ambitions as set out in the Council Plan.
- 1.2 The Asset Management Strategy 2015/16-2017/18 set out the categories which these surplus sites fall into. These are listed below:

- Brownfield sites not required for operational use;
- Greenfield sites that do not form part of the Green Space Strategy (now the Open Space and Green Infrastructure Strategy);
- Sites identified in the Open Space and Green Infrastructure Strategy that are considered to have a better alternative use (i.e. not required to fulfil the objectives of the Strategy);
- Sites identified in the current Playing Pitch Strategy where there is no local demand or business case for retention;
- Sites identified in the Open Space and Green Infrastructure Strategy which form a small part of a larger site and the removal of which would not adversely impact on the function or enjoyment of green space.
- Operational land and buildings where there is no strategic, financial, operational or other public interest reason for retention.

1.3 The existing Asset Management Strategy makes clear that if a site falls into one of these categories then it should be regarded as surplus to requirements and should be disposed of as a matter of principle to avoid holding cost and land ownership liabilities; to recycle the receipt to fund service needs and; to facilitate private sector delivery of development needs such as housing.

1.4 Members should be aware that significant progress has been made with securing receipts from land and property disposals with the Council receiving just over £4m over the past three years; with a further £575k in the pipeline where terms have been agreed with purchasers. In addition there has been notable progress over the past 12 months with the securing of resolutions to grant planning permission on a number of sites including the four largest sites in the Council's disposals programme. Three of these sites are being actively marketed and generating interest from prospective developers which should begin to materialise in offers towards the end of the year; the fourth site will be brought to the market shortly. It is anticipated that these sites will bring not only a windfall of receipts, totalling multi-millions of pounds, but will facilitate delivery of new housing to meet broader policy objectives of the Council.

2. **Issues**

The Open Space and Green Infrastructure Strategy

2.1 In March 2017 Cabinet approved The Open Space and Green Infrastructure Strategy and resolved to:

- (a) report back to Cabinet the implications of this Strategy for the Council's Asset Management Strategy and
- (b) to take all reasonable and proportionate steps to protect the Council's interest in the future management and maintenance of council-owned land in the overall public interest.

There are a number of sites that are not required to meet local standards and are their suitability is being assessed through the joint Local Plan. These sites are listed in Appendix 1.

Landowner Statements/Village Green Applications

2.2 Village Green Applications which were submitted as long as 6 years ago are still outstanding in respect of six parcels of Council-owned land. All of these applications are pending consideration by the County Council thereby creating uncertainty from a strategic asset management perspective. More specifically your officers consider that these sites have the potential to realise capital receipts of well over £5m with properly planned development that would deliver hundreds of much needed dwellings into the local market; these opportunities are being stifled by the VGA process. Therefore officers are engaged in ongoing discussions

with the County Council about the undetermined applications to clarify the decision-making processes and the associated timescales to protect the Council's interests as land owner.

- 2.3 On a broader note, whilst legislative changes were introduced by Government in 2013, including the ability of land owners to submit a statement which brings to an end any period of recreational use 'as of right' over the land to which the statement relates, it is evident that applications to establish Village Greens can be made as a spoiling tactic. Members may wish to consider writing to Government seeking further legislative changes to achieve a better balance between the interests of land owners and other interested parties.
- 2.4 In the meantime officers have, in consultation with the relevant Portfolio Holder submitted landowner statements in respect of the sites listed at Appendix. It is proposed that such action will extend to other Council-owned land as considered appropriate in consultation with the relevant Portfolio Holder.

Commercial portfolio

- 2.5 As referred to in the approved Asset Management Strategy officers are in the process of reviewing the commercial estate with the aim of ensuring the Council is achieving value for money (optimising income and reducing liabilities). In view of the Council's current position in respect of capital funding it is proposed that this piece of work is run in parallel with the recently-commissioned Stock Condition Review. The expectation of this piece of work is that it will provide clear evidence about the performance of the commercial portfolio and may identify parts of the commercial portfolio where disposal would be the best option for the Council; any such premises could be considered for disposal at the earliest opportunity to provide short-term capital funds to support delivery of the capital programme. As part of this review the revenue implications (loss of rental income) would be taken into account as well as any known maintenance/repair liabilities. The review may also assist the Council in identifying future investment opportunities to provide both development outcomes and revenue income or longer term capital receipts.

Options considered

Option 1 – Do nothing

- 3.1 If the Council did not prepare and refresh its Asset Management Strategy and Plan it would not be possible to either manage assets dynamically or demonstrate the rationale for investment; thereby exposing the Council to criticism that it had a weak approach to the management and use of its physical resources.
- 3.2 More importantly and practically, if capital receipts are not generated through the disposal of assets or there is a delay in this happening, this will mean that it will be necessary to either abandon or postpone investment in the capital programme or to find an alternative source of funding, most likely to be further borrowing (the revenue consequences of which would need to be addressed as part of the General Fund budget setting process).

Option 2 – Adopt the refreshed Asset Management Strategy and Delivery Plan

- 3.3 Having an up to date Asset Management Delivery Plan provides a clear programme to optimise property investment in the context of the Strategy. In addition its' implementation would facilitate delivery of the Council's capital programme to meet service needs.

Proposal and Reasons for Preferred Solution

- 4.1 In previous years it has been identified that in view of the lead-in times for making capital purchasing decisions it is considered prudent to agree upon a programme of disposals over

at least a two-year, but preferably three year timescale. It is therefore recommended that this approach continues.

- 4.2 The attached additions to the Delivery Plan is proposed to give the most suitable disposal programme to meet the known and anticipated future needs of the Council.

- 4.3 In addition it is confirmed that officers will be preparing a substantial review of the current AMS and this will be brought to Cabinet in January 2018 to run for the following three years.

5. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 5.1 The disposal of surplus assets enables the achievement of priority outcomes in all four of the Council's Corporate Priorities.

6. **Legal and Statutory Implications**

- 6.1 The Council has a duty, both fiduciary and operationally, to utilise its Assets for the benefit of the community.
- 6.2 The Local Government Act 1972 (as amended) – Section 123 - the Council has a duty to achieve best consideration when disposing of its assets.
- 6.3 The Local Government Act 2000 - powers to promote the economic, social and environmental wellbeing of the Borough.
- 6.4 The Growth and Infrastructure Act 2013 made a number of significant changes to the law on registering new town and village greens under the Commons Act 2006. Section 15 of the 2013 Act amends the law on registering greens by inserting sections 15A and 15B into the 2006 Act. Section 15A allows a landowner to deposit a landowner statement accompanied by a map which brings to an end any period of recreational use 'as of right' over the land to which the statement and map relate.
- 6.5 The Council has a legal duty in respect of unauthorised access to sites under the Occupiers Liability Acts of 1957 and 1984.

7. **Equality Impact Assessment**

- 7.1 The Asset Management Strategy does not create any specific equality impacts.

8. **Financial and Resource Implications**

- 8.1 The plan identifies sites for disposal and in most situations the sites will generate a larger receipt if they have the benefit of planning permission. Funding for specialist planning consultants to develop plans and make planning applications on the most significant sites has been allocated previously and it is anticipated that this provision will meet the costs of such planning application-related costs with the current programme.
- 8.2 The intention to dispose of properties which fall within the commercial portfolio will provide capital receipts to meet short term demands of the Council's capital programme. Any loss of rental income will need to be assimilated into the medium term financial strategy. In addition there may be some opportunities to offset the potential costs arising from maintenance and repair liabilities.

9. **Major Risks**

- 9.1 The identification of a site for disposal does not mean that the site will be sold as there is a risk that there is no suitable market interest. The Council could therefore continue to hold liabilities for these sites and revenue expenditure. Lack of land sales would create a loss of income to the Council and therefore impact on the Council's ability to deliver essential Council services. The delivery of the Asset Management Strategy brings risks of Community and/or political resistance to the land sales and potentially reputational damage to the Council.

10. **Key Decision Information**

- 10.1 The Strategy affects more than 2 wards and future disposals have the potential to generate more than £50,000 and resources are required to seek planning permission for the development of the sites in advance of any disposals.

11. **Earlier Cabinet/Committee Resolutions**

- 11.1 The current Asset Management Strategy 2015/16 to 2017/18 was adopted by Cabinet on 14 January 2015 and reviewed by Cabinet in January 2016 and 2017.

12. **List of Appendices**

- 12.1 Appendix 1 - The updated Asset Management Strategy Delivery Plan is attached for approval.

13. **Background Papers**

- 13.1 The adopted Asset Management Strategy is available at: https://www.newcastle-staffs.gov.uk/sites/default/files/IMCE/YourCouncil/A_to_Z_Policies/Assets_Management_Strategy.pdf