

# Joint Property Asset Disposal Policy

## 1. Overview / Policy Statement

- 1.1 The disposal of surplus or underperforming council land and property assets is a key part of Our Council Plans ([The way ahead council plan South](#) / [At the heart of the Vale council plan](#)) 2025-2029 and beyond.
- 1.2 This disposal policy document provides a framework by which the councils might consider how surplus or underperforming assets within its existing land and property asset portfolio can deliver and maximise capital receipts and/or revenue, in order to facilitate the council's provision of existing and future services and locality needs.

## 2. Objectives

- 2.1 The policy document will ensure that a common, robust disposal and governance process is adopted in order to support effective property disposal decision making within the council and to ensure that requests to purchase council-owned assets are dealt with in a transparent manner.
- 2.2 All actions recommended within this disposal policy document will strive to promote the disposal of assets in a way that positively supports the delivery of the Council Plans 2025-2029. The objectives of the councils' disposal strategy are intended to align with the Council Plans and aim to:
  - Hold assets that meet the councils' objectives for operational, socio-economic, strategic or investment purposes
  - Enable actual and latent capital value tied up in potentially surplus assets to be realised
  - Eliminate liabilities
  - Unlock the benefits of regeneration
  - Enable local Development Plan/Framework policies to be realised
  - Maximise proceeds for the council or community benefit from land use.
- 2.3 These recommendations will also align with the joint Corporate Asset Management Framework (CAMF), adopted in April 2026, which sets out high-level policies as guiding principles for managing the councils land and buildings together with intermediate strategies to inform and support the way the councils manage land and buildings.

### **3. Scope**

3.1 The councils currently own, lease and manage buildings and areas of land within the districts that are diverse in their nature and use, and include amongst other uses: civic buildings and depots to support the delivery of council services, community buildings, housing, retail, commercial, leisure and sports sites, car parks, public toilets, cemeteries, parks, open spaces and amenity land.

3.2 The council utilise their property in a number of ways, including:

- Operational - corporate assets / land and buildings delivering services to residents
- Community - land and buildings most of which are leased out for community purposes
- Investment - income producing assets / long leases and assets held for capital appreciation
- Amenity land – countryside sites, nature reserves, open spaces and roadside verges.

3.3 This document sets out a four-stage procedure to be adopted by the council in connection with the disposal of its surplus and underperforming assets. Whilst this procedure will normally be followed, it should be noted that there may be occasions where these procedures may require adapting – particularly for larger, more complex land/property sales.

3.4 To comply with legislation and accepted best practice, it is essential that the procedures adopted for land and property disposal:

- Ensure that assets are only disposed of where appropriate
- Obtain the best terms reasonably available
- Allow all credible interested parties an equal opportunity to purchase
- Avoid partiality or bias.

3.5 Each asset disposal should be treated on its own merits and nothing in this policy document binds the council to a particular course of action in respect of a disposal. Alternative methods of disposal, not specifically mentioned in this policy, may be used where appropriate and subject to obtaining proper authority.

### **4. Roles and Responsibilities for Delivery**

4.1 The introduction of the Corporate Asset Management Framework (CAMF) and associated documents will help determine the suitability of existing council property assets for retention (in their existing condition or after refurbishment), redevelopment or disposal.

4.2 In line with the CAMF a Corporate Property Group (CPG) will be established. This will include senior officers from across the South and Vale council service areas. The CPG will drive and co-ordinate the councils' asset management

vision, moderate between competing priorities and make recommendations to the relevant decision-making group in accordance with the joint Constitution.

- 4.3 Any assets identified by Service Managers as not being fit for purpose and surplus to the requirements of the service will be considered by the CPG to determine whether they are surplus to the councils' overall needs.
- 4.4 The Director of Development and Corporate Landlord will be responsible for managing the disposal. Each disposal should be treated on its own merits and nothing in this policy document binds the councils to a particular course of action in respect of a disposal.
- 4.5 Prior to disposal the Service Manager(s) for the occupying service(s) will be responsible for ongoing revenue costs relating to the asset, whilst awaiting its disposal or re-use.
- 4.6 Disposals will be managed by officers in Strategic Property and supported by Legal and Finance teams. Key activities will be delivered in-house to provide reassurance to the council ensuring that there are appropriate 'checks and balances' in place. Where appropriate, specialist external suppliers and advisors may be utilised, for example, more complex transactions and the provision of specialist tax advice.

## **5. Relevant Legislation**

- 5.1 The council's power of disposal is a general power contained in Section 123 of the Local Government Act 1972, which provides that the consideration should not (except with the consent of the Secretary of State) be less than that which can reasonably be obtained.
- 5.2 There are, however, exceptions where, for example, a disposal might be considered by the council to contribute to the promotion, or improvement of the economic, social and environmental wellbeing in the district. In such circumstances, the Local Government Act - General Disposal Consent (England) 2003 gives the council more flexibility to dispose of land at less than market value, known as an 'undervalue' (the difference between the market value of the property and the actual consideration) provided that any undervalue does not exceed £2 million. In cases where the undervalue exceeds £2 million, consent to the proposed disposal will need to be obtained from the Secretary of State.
- 5.3 Where land is held under a relevant Housing Act, the council has the power to dispose of this land under Section 32 of the Housing Act 1985, subject to the approval of the relevant Secretary of State. Under the General Housing Consents 2013, a general consent permits local authorities to dispose of land for a consideration equal to its market value (with some minor exceptions), without requiring specific Secretary of State approval.
- 5.4 A Community Asset Transfer is a voluntary process which allows the transfer of management and/or ownership of public land and buildings from the council to a community organisation for less than market value in order to achieve a local social, economic or environmental benefit (i.e., through the powers conferred on the council by the General Disposal Consent (England) 2003).

5.5 The council are mindful of Local Government Reorganisation on the horizon and will follow central Government directions when considering any disposal prior to vesting day, when the new unitary authority assumes full power.

## **6. Relevant Policy and Procedure**

6.1 Community Asset Transfer policy

## **7. Alternative Formats**

7.1 Please do not hesitate to contact a member of the Strategic Property Team if you would like this policy in an alternative format, via [property@southandvale.gov.uk](mailto:property@southandvale.gov.uk) or telephone 01235 422422.

## **8. Policy**

8.1 For the purposes of this policy, a disposal of property is considered to be a disposal if it consists of the transfer of the freehold interest or the surrender, or assignment of a leasehold interest held by the council.

8.2 In the case of disposal, these property assets will be classed as 'surplus' properties where some or all of the following criteria are met:

- The property in question makes a nominal or nil contribution to the delivery of the council's services or Council Plan objectives, either directly or indirectly (nor generates appropriate income and has limited potential for future service delivery or community regeneration projects)
- A more suitable alternative property for the delivery of the council's services or Council Plan objectives has been identified which would achieve a lower cost and/or more cost-effective service delivery and there is no potential for future alternative service delivery or regeneration
- Better public value can be obtained by transfer of assets to another public or community body
- The alternative use value is higher, and the service can be relocated elsewhere and still leave a net capital receipt
- The property repeatedly performs poorly in property performance assessments owing to poor condition, suitability, sufficiency, or environmental factors compared with service standards, or has adverse running costs
- The property is subject to option agreements or pre-existing commitments for disposal.

8.3 It should be noted that some property assets which meet the 'surplus' or 'underperforming' criteria may still be held by the council with the aim of enabling long-term development or future infrastructure projects, as part of wider strategic regeneration or place shaping. Further, some property disposals may be compulsory transfers driven by statute rather than the

identification of surplus or underperforming assets.

8.4 Disposal proceeds will be accounted for as capital receipts or deferred capital receipts in accordance with the applicable accounting standards, and reserved for financing the capital programme or repaying debt.

8.5 There are four distinct elements of the council's asset disposal procedure:

- **PROCESS** – to identify the assets as 'surplus' or 'underperforming'
- **PREPARATION** - for disposal, including due diligence
- **DETERMINATION** - of the method of disposal
- **DISPOSAL** of the asset.

## 9. Procedure

### Process for identification of Surplus Property

9.1 There are several circumstances or initiatives which might result in land or property assets belonging to the council being identified as either surplus or underperforming properties. These include, but are not limited to:

- Strategic property reviews
- Identification of development opportunities
- Regeneration schemes
- Direct approaches from interested third parties

9.2 Where the council receives approaches from third parties to acquire amenity land they will be advised that it is not the council's policy to sell such land as it is not deemed surplus to requirements for the following reasons:

- Title covenants that restrict the use of the land or require it to be retained as public open space
- Restrictions under Large Scale Voluntary Transfer (LSVT) and/or historic Right to Buy (RTB) transfers
- The risk of being left with odd parcels of land that are inefficient to maintain.

9.3 Disposals of inconsequential or incidental public open space which do not fall into the above categories may be considered but these are governed by additional requirements relating to the transfer process (see **Appendix 1 – Disposal of Open Space Land**).

9.4 In the case of land/property being considered suitable for community ownership, if an asset is used for social, community and public purposes and the benefits of that service are deemed to outweigh the value of continuing ownership by the council on behalf of its residents, the council may consider the transfer of the

asset to the Parish or Town council or a charity or community group, known as a Community Asset Transfer.

9.5 Further explanation regarding the Community Asset Transfer process is given in **Community Asset Transfer Policy**.

9.6 A Community Asset Transfer is distinct from a surplus property that has been listed as an 'Asset of Community Value', and if an 'Asset of Community Value' is earmarked by the council for disposal, the council should ensure that an opportunity for a Community Right to Bid is given before a wider disposal process is progressed. Under the Community Right to Bid section of the Localism Act 2011, groups that have succeeded in having an asset listed are allowed a specified timescale to express an interest in buying it if it comes up for sale. If such an expression of interest is made, the Act permits a further specified timescale to develop a bid. The organisation may then bid alongside any other potential purchasers in the market.

9.7 Before deciding whether to formally dispose of land or property, a report setting out all relevant information, including the planning position, potential use, current or proposed development restrictions and estimated value together with cost of ongoing property ownership will be prepared in line with the Constitution to aid the decision-making process.

## **Preparation for disposal**

9.8 Once confirmed as surplus and a prospect for disposal, the property should be logged on the council's surplus land register.

9.9 Once a property has been declared surplus, where there is an Asset of Community Value in place, the Community Enablement Team will be consulted, together with partner and other public sector organisations and community groups.

9.10 Where consultation with the above groups is undertaken expressions of interest in the surplus property must be made within six weeks of notification of the property being declared surplus and should include supporting documentation sufficient to demonstrate a serious intention to proceed.

9.11 Where a property is deemed unsuitable or unviable for use by either a partner organisation or the local community, then the council should proceed to market disposal following the due process in line with the council's Constitution.

9.12 A property surveyor will inspect the site in order to assess whether there are any factors which are likely to affect the disposal. In addition, and where relevant, Energy Performance Certificates should be obtained, and the VAT position should be established.

- 9.13 Where development potential has been identified, planning advice should be sought in order to establish the existing use of the property and what potential alternative uses might be considered in order to assess the means by which maximum sale proceeds can be generated. Where the council wishes to ensure a desired use of the property to achieve its policy objectives, it will include restrictive covenants where appropriate. Overage provisions should also be considered, in order that the council might share in the benefits of any future increase in value due to an alternative planning consent being secured by the purchaser of any property. Ransom strip retention or user rights may also be introduced where relevant.
- 9.14 The council's Legal department will be engaged at an early stage to produce a report on title for the property to be disposed of, to include any rights or obligations which might affect it. Consideration should also be given as to whether the land was acquired by, or under threat of, compulsion and if so whether the Crichel Down Rules would apply.
- 9.15 If the Crichel Down rules apply, given there is no statutory requirement for Local authorities to follow them, it will be at the discretion of the Director of Development and Corporate Landlord in consultation with the Director of Legal and Democratic whether to follow the rules on a case-by-case basis.
- 9.16 Consideration should also be given as to whether the property has been the subject of grant funding in the past, the terms and conditions of that funding and whether there are any repayment or penalty clauses.
- 9.17 In accordance with the council's Constitution / Financial Procedure Rules (FPR) an initial valuation should be completed by a qualified valuer early within the process. Where an asset is likely to be valued at more than the stipulated figure two valuations will be required, one of which will be external.
- 9.18 There is a need for continual liaison/communication with all stakeholders between a property being declared surplus and the completion of a disposal. In particular, the party responsible for the day-to-day management of the property is to be kept regularly informed of progress.

### **Determination of method of disposal**

- 9.19 The most appropriate method of disposal should be determined by using the table below as a guide and the necessary approvals sought.
- 9.20 On every occasion when a property disposal is undertaken, consideration will be given to whether an overage provision or restrictive covenant is appropriate. Inclusion of these will ensure the council benefits from any potential future development.
- 9.21 In accordance with Financial Procedure Rules all disposals with a value above the stipulated figure will be put on the open market and competitive bids sought (unless otherwise agreed by the Chief Finance officer and Monitoring officer).

9.22 The capital finance team will be kept informed and financial statements and forecasts updated accordingly.

**Table 1 – Methods of disposal**

BASIS	METHOD	When to adopt
Open market	Private Treaty	Limited interest and narrow valuation band. The most common form of concluding a sale and one used for all types of properties mainly as it affords the seller the greatest degree of flexibility and time. Can have a closing date and progress by the way of informal tender where considerable interest is shown during marketing.
Open market	Informal Tender	To identify a preferred bidder and enable further detailed terms or proposals for development to be negotiated. Appropriate for sales where there are uncertainties (particularly planning) and for large or complex development or regeneration sites and where the proposal may need to be developed in co-operation with the council to achieve best consideration. Allows for the use of conditional contracts, including clauses which allow for further sums to become payable upon the grant of planning in the future.
Open market	Auction	Wide interest anticipated, no obvious purchaser and easy to allocate a reserve. Speed and best price can be demonstrated. Effectively promotes an immediate sale.  Often appropriate for residential assets not suitable for third party lending, land sales where there is limited prospect of development or alternative use and commercial property investments.  Requires 'up front' authority to allow setting of appropriate reserve and approval to sell and may result in no sale if reserve is not met.
Open market	Formal Tender	Wide interest, land ownership not complex, no uncertainties regarding the grant of planning consent and any obligations that are to be placed on a purchaser are clear and capable of specification in advance. Not commonly used due to its complex nature and the rigid structure of the formal tender process.
Special purchaser	Sale to Named Purchaser	Sales to adjoining owner where special circumstances prevail. Typical examples include a conditional disposal where the council is selling for a particular purpose (i.e. to a developer for regeneration or to a

		nominated housing association for social housing development) or where there is marriage value.
Offer back to former owner	Sale to Named Purchaser	Sales to former owners under the Crichel Down Rules.

9.23 Until a legally binding contract has been entered into, the council has a duty to consider any late offers or bids. This should be made clear to any prospective purchaser when disposing of land and property by private sale or negotiated/informal tender. In considering late bids, the council should take into account the likelihood of the late bid proceeding to completion in a timely manner and the possibility of it being used as a spoiling or delaying tactic, and the council may reject bids for sound commercial reasons such as these.

9.24 In cases where the council does not wish to exercise any control over the future use of the property, other than through the planning process, then the disposal of the freehold will obtain the best price. However, where the council wants to exercise some control over the future use of the land, a leasehold disposal for a term necessary to ensure the satisfactory completion of the scheme is usually required.

9.25 In the case of the latter, these are often highly complex agreements, and a development agreement conditional upon planning permission being granted will usually be entered into before a formal disposal is.

## Property Disposal

9.26 An appropriate marketing strategy should be developed for use by either the in-house Property team or external agents undertaking the disposal, with all costs (legal, consultants, marketing, and agency fees) being charged against the receipt.

9.27 Marketing materials should be produced in draft form whether in-house or by the appointed disposal agent, the latter for approval by the council's property surveyor and arrangements made for the erection of a 'For Sale' board where appropriate.

9.28 Where formal sales particulars are prepared these should as a minimum be:

- posted on the council's website
- forwarded to any prospective purchasers whose interest is registered with the council.

9.29 This list is not exhaustive, and the property surveyor dealing with the disposal will determine other appropriate recipients on a case-by-case basis to ensure as broad exposure as possible.

- 9.30 Consideration should be given to advertising the availability of the property in the local press, on property websites, or on social media, the latter in consultation with the Communications team.
- 9.31 All negotiations for disposal should be conducted by a suitably qualified property professional, preferably a member of the Royal Institution of Chartered Surveyors.
- 9.32 If appropriate, where a community group submit a bid in competition with other parties to acquire the asset an assessment of potential purchasers will be conducted by way of an appropriate weighted scoring matrix (this will ensure compliance with S123 requirements)..
- 9.33 The necessary authority to dispose will be sought at the appropriate point depending upon the method of sale.
- 9.34 Websites/marketing boards should be updated to reflect the property being 'under offer' and the Legal team should be instructed by the relevant property surveyor to prepare the relevant legal documentation.

## **Risk Implications**

- 9.35 There are inherent risks in property ownership and capital receipts derived from property. The capital value will increase and decrease in line with property markets, location and volatile economic conditions. Properties can take a long time to sell and realise the capital invested.

## **Money Laundering**

- 9.36 All transactions should be carried out in accordance with the councils' Anti-Money Laundering Policy.
- 9.37 All cash transactions must be within the limits set out in the Anti-Money Laundering Policy.

## **10. Communication and Contact Information**

- 10.1 For further information about this policy, please contact the Strategic Property team on [property@southandvale.gov.uk](mailto:property@southandvale.gov.uk)

## 11. Definitions

<b>Key term</b>	<b>Definition</b>
Property	Includes any building constructed on land, or land, or an interest in land itself.
Freehold	A type of property ownership where the ownership of both the building and the land is outright.
Leasehold	The right to occupy and use a property for a specific number of years for in return for payment of rent.
Option agreement	A contract between a property owner and a buyer that allows the buyer to pay a certain sum of money for the right to purchase the property on or before a later date.
Restrictive covenants	The legal restrictions imposed on a property owner's use of the property.
Overage provisions	A contractual mechanism that allows the council to receive an additional payment after the disposal of a property if the purchaser obtains a future uplift in value, typically through securing a more valuable planning permission or undertaking profitable development.
Marriage Value	Refers to the additional value created when two or more property interests are combined, where the resulting merged interest is worth more than the sum of the individual parts.
Crichel Down Rules	These are non-statutory guidelines that require surplus land acquired by compulsory purchase to be offered back to former owners or their successors, where applicable.

## 12. Change Record

<b>Change Record</b>	
Policy title	Property Asset Disposal Policy
Version number	2.0
Owner(s)	Strategic Property Manager
Author(s)	Karen Lister
Approved by	South and Vale Cabinet
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## **Appendix 1 – Disposal of Open Space Land**

### **1. Background**

1.1 Section 10 of the Open Spaces Act 1906 states:

"A local authority who have acquired any estate or interest or control over any open space or burial ground under this Act shall, subject to any conditions under which the estate, interest or control was acquired:

- (a) hold and administer the open space or burial ground in trust to allow, and with a view to, the enjoyment thereof by the public as an open space within the meaning of this Act and under proper control and regulation and for no other purpose; and
- (b) maintain and keep the open space or burial ground in a good and decent state..."

1.2 The case of *Muir v Wandsworth Borough Council* [2017] EWHC 1947 (Admin) (28 July 2017) provided guidance to local authorities on the scope of the restrictions that apply to disposals of open spaces.

1.3 Further, open space is defined in the Town and Country Planning Act 1990 as any land 'laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground'. It is generally considered to be a valuable community resource, to be enjoyed by the wider community and there will be a general presumption against the disposal of these assets.

1.4 The council will not normally dispose of any core recreational open spaces by way of freehold transfers but may consider applications for the disposal of 'incidental' open space and areas of landscaping, particularly where it will improve the management of land benefitting the wider public (e.g. a Town / Parish Council).

1.5 Any disposal of 'incidental' open space land shall be adequately advertised.

### **2. Procedure**

2.1 In the event that a disposal of 'incidental' public space is proposed (typically where the area in question does not provide a valued opportunity for sport, recreation or leisure), there is a legal requirement for the council to give notice of the intention to dispose by placing a notice in a local newspaper for two consecutive weeks and consider any objections that are received as a result.

2.2 All costs of advertising the proposed sale must be met by the enquiring party.

- 2.3 Any objections that are received must be adequately considered.
- 2.4 In agreeing to the disposal of such land, the council should consider whether the personal safety for users of any remaining nearby open space will be detrimentally affected (e.g., where a narrow alleyway is created). Furthermore, sales which lead to a loss or destruction of the visual quality of the surrounding area should not be contemplated unless there are covenants imposed on the sale to retain the open nature of the landscaped area and/or to require certain standards of new boundary fencing, walling or delineation are met.