

Meeting: Policy Development and Decision Group (Joint Operations Team)

Date: 6 February 2017

Wards Affected: Berry Head with Furzeham, Preston and Tormohun

Report Title: Proposed Disposal of Surplus Assets

Is the decision a key decision? Yes

When does the decision need to be implemented? As soon as possible

Executive Lead Contact Details: Mayor Oliver, Mayor and Executive Led for Employment, Regeneration, Finance and Audit, mayor@torbay.gov.uk

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1. Purpose and Introduction.

- 1.1. To make individual recommendations relating to the disposal of four surplus assets to achieve capital receipts and cost savings.

2. Proposed Decision

- 2.1. That the Mayor be recommended:

- (i) to consider any feedback received before the 6th Feb 2017, from the Local Access Forum, Ward Councillors and Council officers to the disposal of the four assets listed in Appendix 1;
- (ii) that, subject to any feedback identified in (i) above, to accept that the four assets listed in Appendix 1 should be declared as no longer required for service delivery and that the Assistant Director Corporate and Business Services be requested to where appropriate advertise their intended individual disposal in accordance with the Section 123(2A) of the Local Government Act 1972;
- (iii) that, subject to any objections received to any disposal advertised pursuant to S123 of the Local Government Act 1972 and subject to (i) above, the assets listed in Appendix 1 be individually disposed on such terms as are acceptable to the Assistant Director Corporate and Business Services in consultation

with the Executive Head of Business Services and the Chief Executive of the Torbay Development Agency; and

- (iv) that, the Assistant Director Corporate and Business Services in consultation with the Executive Head of Business Services and the Chief Executive of the Torbay Development Agency be given delegated authority to consider any objections received on the advertisement of any of the proposed disposals pursuant to s123 of the Local Government Act 1972.

3. Reason for Decision

- 3.1. Expenditure and repair liability across the Council's assets significantly exceeds available resources.
- 3.2. Council services supported by the Torbay Development Agency (TDA) continue to review the suitability and challenge the present use of assets. Working together the TDA and Council officers have considered the assets listed in Appendix 1 with a view to reducing running costs and generating capital receipts. These receipts could then be used to support the Council's approved Capital Programme.
- 3.3. The disposal of assets not required for service delivery will enable the capital receipts to be reinvested into the Council's existing Capital Programme, which will contribute to the Council's objectives as set out in the Council's Corporate Plan and the Corporate Asset Management Plan. Consequently the recommended decision falls within the Council's Policy Framework.
- 3.4. The reduction of the number of assets held is seen as an important element to achieving a sustainable maintenance regime for future generations.
- 3.5. At this point it is neither possible nor desirable to publicly quantify the expected total receipt.
- 3.6. Section 123(2A) of the Local Government Act 1972 states that subject to certain exceptions a council may not dispose of land consisting or forming part of an open space unless before disposing of the land they advertise the disposal for two consecutive weeks in a local newspaper, and consider any objections to the proposed disposal which may be made to them. An open space is defined for the purposes of the Act as being any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground

4. Supporting Information

- 4.1. The Capital Strategy is approved by the Council each year and provides the funding for the Capital Programme which will be met in part from asset disposals.
- 4.2. The Corporate Asset Management Plan which is approved by the Council each year provided that the Council would adhere to the following guiding principles in the management of its assets:
- To continuously maintain and improve assets;
 - To release value and minimise cost by challenging and reviewing the manner and use of assets;
 - To periodically review all assets to identify possible alternative use or disposal;

- To ensure that disposals are effectively managed; and
 - To monitor running costs to target potential savings.
- 4.3. Three of the four sites are deemed to be open space (Land adj. No. 4, Berry Head Road, Land at Green Park Road and North Boundary Road Play Park). As such their sale will be advertised in accordance with Section 123(1)(2a) of the Local Government Act 1972. The Council will need to consider any objections prior to their disposal.
- 4.4. The disposal of public open space is likely to require some form of mitigation, if so required, as indicated in Policy R5 'Protection of public open spaces and playing fields', as set out in the Local Plan. However, this requirement would be identified as part of the asset review process and planning policy would need to be followed in any event. As such any decision to dispose of public open space is within Council policy, so long as other associated policies are followed.
- 4.5. If deemed appropriate, architects will be instructed to obtain planning consent for the sites so that the final disposal value can be maximised.
- 4.6. When an asset is considered to be available for sale, either with or without planning consent, an external agent or auctioneer (as deemed appropriate) will be instructed to sell the asset in accordance with Council Standing Orders.

5. Possibilities, Options and Fair Decision Making

- 5.1. The assets could be retained. If the assets are retained the ongoing maintenance burden and repair liability would most likely remain with the Council. Also, if the assets are retained then the anticipated capital receipt income will be lost and this will have a negative impact on the Council's capital budget/plan.
- 5.2. It would be possible to consider transferring some of these assets under the Council's Community Asset Transfer Policy but this option would not produce the anticipated capital receipt.

6. Equal Opportunities

- 6.1. An Equality Impact Assessment has been published in respect of these proposals and is attached to this report as Appendix 2.

7. Public Services (Social Value) Act 2012

- 7.1. Where deemed appropriate, architects will be employed to obtain an alternative planning consent and external agents / auctioneers (as appropriate) will be appointed to effect a disposal.

8. Consultation

- 8.1. Letters including plans of the individual assets have been forwarded to relevant Ward Members and the Secretary for the Torbay Local Access Forum and comments received in respect of these proposals are attached to this report as Appendix 7.

9. Risks

- 9.1. The disposal of assets not required for service delivery has been identified as one of several initiatives to provide additional funding to tackle the backlog of urgent land and building maintenance, as well as providing much needed receipts for the Capital Programme. Inevitably, there may be some objections to the disposal of some of the assets identified. Failure to consult adequately may lead to abortive disposal work should some of the disposals not proceed. This risk has been mitigated by consulting adequately and by advertising prior to any marketing taking place.

10. Appendices

Appendix 1 Schedule of assets to be declared surplus.
Appendix 2 Equalities Impact Assessment
Appendix 3 EM2670 – Land adj. to no. 4 Berry Head Road
Appendix 4 EM2814a – North Boundary Road Play Park
Appendix 5 EM2653 – Land at Green Park Road
Appendix 6 EM2637 – Bay Tree House
Appendix 7 - Comments from Consultation

11. Additional Information

- 11.1. None