

Report to:	Cabinet	Date: 09 March 2022
Subject:	Update on the Accelerated Land and Property Disposals Programme – Part A	
Report of	Leader and Cabinet Member for Finance and Growth	

Summary

1. The Council's Accelerated Land and Property Disposals Programme (ALPDP) has been in operation following Cabinet approval on 24th November 2020. Since then, three phases of land and building assets (hereafter referred to as property assets) have been approved for disposal by Cabinet on 24th March 2021, 30th June 2021 and 13th October 2021.
2. Led by the Land and Property team, a team of officers have been making steady progress on preparing and disposing of the smaller property assets, alongside other key officers from across the Business, Growth and Infrastructure (BGI) Department focusing on the larger, more strategic Council-owned property assets.
3. Preparing some of the property assets for disposal that are classed as open space have resulted in challenges and objections from residents through the Public Open Space advertising procedure that is statutorily required by law.
4. As noted in the Phase 3 Cabinet paper (13th October 2021), the Council does reserve the right not to dispose of a property asset, should it be determined following review that it should be retained. Further development of the ALPDP has identified the potential need to retain property assets for short-term use and several property assets to remain within the ownership of the Council, as alternative uses have been identified that supports other Council strategies.
5. The 2018 Community Asset Transfer (CAT) policy and toolkit have been reviewed and this report includes summary detail on how it will be used to support the ALPDP.
6. This report:
 - Sets out the Council's disposals successes to date.
 - Identifies property assets that require withdrawal from the ALPDP following community consultation.
 - Identifies a property asset that has been subject to an objection through the Public Open Space advertising process.
 - Asks Members to note that some assets within the ADLP programme will be used for short term occupation under licence.
 - Provides an overview of the reviewed 2018 CAT policy and toolkit.
 - Updates on how the ALPDP is being resourced to ensure its success.

Recommendations

7. That Cabinet:

1. Note success of the disposals to date.
2. Approval is given to withdraw property assets from the ALPDP (as set out in Appendix A).
3. Accept the officer recommendation that following consultation that the land known as Barratt Estate Limefield (land to the west of Wheatfield Close) remains in the ADLP.
4. Note that in order to ensure that assets do not remain sterile officers will give consideration to use of short term licences where appropriate (as set out in paragraph 22 of this report).
5. Members are asked to approve amendments to the policy community asset transfer policy (As set out in Appendix C & D).

Reasons for recommendations

8. Reasons:

- To share the success of the ALPDP to date with members and residents of the borough.
- To allow residents to continue to enjoy the benefits (including health and wellbeing benefits) open space land provides to local communities.
- To make best use of the Council's property assets, where a short-term use has been identified to support wider Council policies or strategies or provide economic benefits.
- To enable the Council to continue to generate capital receipts that can enable other Council projects to be supported.
- To be clear to the local community on how the 2022 CAT policy and toolkit will support the ALPDP.

Alternative options considered and rejected

9. No other options were considered/were applicable.

Disposals Strategy

10. The ALPDP is part of a wider disposals' strategy and to date, has focussed on the disposal of a series of small to medium-scale property assets. So far, 8 property assets have been progressed through to disposal which has seen the generation of £1,217,000 expected capital receipts that have either been brought into the Council or are in the process of being brought in during the current financial year.
11. The Brownfield Land programme, made up of larger strategic housing development sites has (to date) produced an overall expected capital receipt of £5,350,000 for the Council alongside the provision of a large number of affordable homes to the borough.

12. There will also be a future capital receipt (to be confirmed) for the East Lancashire Papermill site.
13. There have also been some managed disposals i.e. Chamberhall Phase 2 (and overage payment on Phase 1) and the former fire station that have resulted in £4,350,000 of expected capital receipts to be brought into the Council subject to contract and site investigations.
14. A list of all the above property assets and their respective expected capital receipts are contained in the Part A report. All property assets are collectively grouped under the ALPDP. The financial details are set out in Part B to this report.
15. Officers continue to monitor the overall disposals strategy to drive forward the disposal of identified property assets as promptly as possible, but some of them are part of wider strategies and will be disposed of in line with wider timescales and not all disposals are initially successful. For example, the disposal of Humphrey House will take place once agreements are confirmed for the current NHS occupants to vacate; and Summerseat House will be remarketed following an unsuccessful open market tender process, following advice from the procured marketing agent.

Property asset to be retained in the ALPDP

16. One objection has been received through the recent public open space advertising for the property asset referred to as 'Barratt Estate Limefield (land to the west of Wheatfield Close)' from the approved Phase 2 disposals list. The objection was focused on retaining green space due to environmental concerns. There is not enough evidence or number of received objections to recommend its removal, so it is being recommended that this property asset is retained in the ALPDP for disposal.
17. A copy of the objection letter is in Appendix B. Officer's views on the objection are as follows.
 - Whilst Bury Council acknowledge the benefits of green spaces to peoples health and wellbeing, there is a presumption from the objector that the green space will be lost. The ALDP aims to rationalise the local authorities land and property assets and is not making a presumption or determination of its future use or if sold what the motivations of the purchaser will be.
 - Points 1 and 2 of the objection are generic in nature and could apply to any open space in the ALDP process. Removing the property asset or any similar asset from the programme will not assist the local authority in rationalising its estate.
 - It is unfortunate and we apologise that officers did not respond to the objectors requests for a plan of the site and that a plan was not available at the Town Hall. Steps have been taken by the Property Team to address these shortfalls when a property assets is advertised in the future.

Property assets to be withdrawn from the ALPDP

18. Several property assets that were originally approved for disposal have since been identified for removal from the programme. They are:
 - 7 Ryecroft
 - Bevis Green
 - Sherringham Drive
 - Dereham Close number 2
 - Dereham Close numbers 9 and 11
 - Holbeach Close walkway
 - Broad Oak, off Broad Oak Lane and Bridge Hall Lane, Bury
 - Spurr House
19. Appendix A contains more detail on the above list and individual reasons for A requesting why they are being recommended for removal.
20. In summary, the main reasons for requesting that the property assets are withdrawn from the ALPDP are the number of objections received from local residents to the public open space advertising process and the Council has since identified an alternative use for two of the property assets to support the delivery of another Council priority.
21. Advertising the proposed disposal has enabled consultation with the local community. The views and opinions of local residents have been listened to and the decision to withdraw the property assets has been as a result of the Council fully considering the objections received.

Process for using property assets on a short-term basis

22. For some property assets approved for disposal in Phase 1, the Council may consider that certain ones may lend themselves to being used on a short-term basis where they have the potential to fall into a wider strategy and an immediate decision on their disposal may not be forthcoming. Such property assets, subject to planning permission where required and subject to accepting an income (that can be negotiated by the Council's retained agent) can be considered to be used in this way.
23. The Council is willing to enter into discussions with a third party on the understanding that they fully understand and accept that occupation of an identified property asset will not be on a long-term basis. The length of occupation will be determined relevant to the property asset identified.
24. The Council will reserve the right to not allow a third party to take occupation on a short-term basis where there are significant objections and pushback from local residents.

25. It is recommended that the decision for using any identified property assets in this way is delegated to the Executive Director of Place in consultation with the Leader of the Council.

Community Asset Transfer policy and toolkit

26. A review of the 2018 CAT policy and toolkit has been undertaken in line with the approval of the ALPDP. Copies of the updated Policy and Toolkit are in Appendices' C & D. Fundamentally, the policy and toolkit remain unchanged, other than:
- Pre-support and support for the preparation of a CAT application will now be available from the Partnerships Team (Community Hubs). This will include support to link interest groups to the wider community networks for potential joint applications to add benefit and make the application more viable. It will help align local priorities and contribute to the Let's Do It Strategy.
 - The Council reserving the right not to consider a CAT on a property asset if it determines that another disposal option is preferred and takes priority. The Executive Director, in consultation with the Leader of the Council and relevant Members will consider such cases and decide on preferred priority. Whilst the Council is in full support of CATs and supporting the development of community groups, it still has to consider best value and it must be given the ability to consider an alternative method of disposal where this may be more suited to the particular property asset.
27. A community group will follow the application process as outlined in the CAT toolkit and will have to ensure a credible Expression of Interest and robust Business Case, and clearly demonstrate that it has the skills, capacity, financial and legal ability to sustain a CAT. The community group must have the support to have the correct revenue funding in place.

Update on resources

28. **Programme Manager** – this post has been covered in a part time capacity by an officer from the Greater Manchester Combined Authority since November 2020. This arrangement will continue until the recruitment of a full-time officer on a fixed-term contract is appointed. The recruitment process is to commence once it is confirmed that the budget is in place.

Property Lawyer – Legal Services are in the process of readvertising this role.

29. As per the Cabinet report 24th November 2020, both these posts will be appointed on a fixed-term basis to lead and support the successful delivery of the ALPDP and approval was given to ring-fence a proportion of the capital receipts (arising from the sale of the Council's property assets) to cover the costs of them.

Conclusion

30. This report demonstrates the successes of the disposal strategy (including ALPDP) to date and recognises that some property assets (despite having previous approval for disposal by Cabinet) should not be disposed of as they are providing an important community resource. Or, since approval, alternative uses have been identified as other strategic priorities and Council programmes have further developed.
 31. It importantly recognises that the Council does listen to the views and opinions of its residents and is able to decide not to dispose of a property asset where it's been determined that by retaining it, the benefits outweigh disposal. Other property assets will be identified that will continue to ensure that the value of the capital receipts generated is therefore not compromised.
 32. The CAT policy is an important tool for enabling a community group to support the ALPDP, but it must be accepted that a CAT may not (in some cases) be the most effective solution.
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Links with the Corporate Priorities:

33. Enterprise to drive economic growth and inclusion – the disposals strategy (including ALPDP) links with the Spatial Plan: Local and Places for everyone and regeneration plans, as many of the property assets that are being disposed of or reused will support the delivery of the various regeneration programmes and create economic growth where redevelopment may include new homes or additional commercial premises being built.
 34. A Strength-Based approach – being challenged by the local community on why the Council is disposing of some property assets that have been identified by local residents as crucial to support the wellbeing of their local environment. This builds the wealth of the community and supports population health.
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Equality Impact and Considerations:

35. The content of this report does not impact on equality.
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Environmental Impact and Considerations:

36. The Council's Local Plan under Places for Everyone (which is currently under development), is likely to have a requirement that all new developments will be carbon neutral from 2028. Any developments between disposal and 2028 will only be required to meet the national building regulations standards and therefore may not be carbon neutral or capable of becoming carbon neutral easily. This will mean that a further intervention will be needed before 2038 to ensure that the building meets our 2038 carbon neutral target.

37. Any retained green spaces not now being disposed of may have the opportunity to benefit from green initiatives such as the Cities of Trees. The developing Green and Blue Infrastructure Strategy will support community groups protect, enhance and develop the Borough's existing natural environment and greenspace.

Assessment and Mitigation of Risk:

Risk / opportunity	Mitigation
Withdrawal of some property assets will result in the Council needing to maintain them, thus requiring a revenue budget.	Likely revenue needs will be reduced. Local residents could be encouraged to take on the property assets under a Community Asset Transfer.
Pressure for any property assets being used by a third party on a short-term basis to be used on a longer-term basis.	Any necessary licences/agreements will be legally robust to avoid successful challenge.
Land and property disposals are notoriously labour intensive and are at risk of not being favoured within a community.	Such property assets are likely to require Public Open Space advertising/process and any objections received as per previous will be carefully considered. Further property assets can be removed from the ALPDP by agreement from Cabinet.
Resources (by way of capital receipts) are not made available to fund the two posts undertake the land and property disposals.	Approval was given by Cabinet 20 th November 2020 in recognition that this was required.
No applications are received for the programme manager post and future delivery of the ALPDP is compromised due to no resource.	There is a risk that the post's salary is not attractive enough. Market supplements may need to be agreed.

Legal Implications:

S123 2(A) of the Local Government Act 1972 sets out the process for the sale of open land it states that *a council may not dispose under subsection (1) above of any land consisting or forming part of an open space unless before disposing of the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed disposal which may be made to them. Members are requested to consider the object and determine whether the land should remain in the disposals programme. Members must give due regard to the consultation outcomes.*

All disposals will be carried out in accordance with council procedures and as set out in this report. All disposals by the council must ensure that we meet our best value duty.

Financial Implications:

The previous reports identified that the total pipeline of sites indicated that c£8m in capital receipts could be generated. As sites are removed this value will obviously decrease. Work is also being undertaken to validate if the remaining assumptions are still valid and the appropriate likely timing of these capital receipts.

A maximum of 4% of capital receipts can be offset against cost of sales, and this amount will be maximised, as appropriate, to limit any costs against the Council's revenue budget. Council on the 23rd February 2022 also agreed the flexible use of capital receipts policy for revenue costs to support transformation in order to deliver future revenue savings.

£0.6m is likely to be needed to drive forward the programme primarily through the appointment of a programme manager, property agent and property lawyer. These posts will form part of the cost associated with selling the assets and therefore can be allocated to the capital receipts. However, the amount chargeable is capped by Government legislation so consideration needs to be given to potential revenue implications of those costs of sale that exceed the 4% limit.

There are further capital costs of £1.6m that have already been incurred related to this programme and while these costs have been funded in 2020/21, they have increased the Council's borrowing need, and this will need to be offset by the receipts once they are realised.

Any capital receipts in excess of the costs above, and the opportunity they provide, will need to be considered in the context of the Council's financial strategy.

Regular monitoring and reporting of the process is needed to ensure that receipts are delivered within anticipated timescales and that the Council does not incur costs without seeing the benefit of receipts. As part of the development of the governance arrangements for the capital programme, monitoring of capital receipts and the progress against the disposal programme will be factored into the quarterly monitoring reports to Cabinet

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Background papers:

Appendix A – List of Withdrawn Property Assets

Appendix B – Wheatfield Objection Letter

Appendix C - 2022 Community Asset Transfer Policy

Appendix D - 2022 Community Asset Transfer Policy Toolkit

Please include a glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning
Accelerated Land and Property Disposals Programme (ALPDP)	The Council's disposal programme.
Community Asset Transfer (CAT)	A change in management of land or building from a local authority (or other public body) to community and voluntary sector groups to achieve a local social, economic or environmental benefit.
Disposal	Removal of a property asset from the Council's ownership and/or direct management. It is not solely relating to a sale of an asset.