

**NORTH LINCOLNSHIRE COUNCIL**

**COMMERCIAL  
CABINET MEMBER**

**UPDATED PROPERTY PORTFOLIO FRAMEWORK**

**1. OBJECT AND KEY POINTS IN THIS REPORT**

- 1.1 To approve the updated Property Portfolio Framework.

**2. BACKGROUND INFORMATION**

- 2.1 The development of the commercial property portfolio and the asset disposal programme plays a significant part in the council achieving its goals.
- 2.2 The property portfolio framework was developed to ensure that the council's strategy, policies, guidance and procedures are transparent. The framework is intended to promote expediency in the way that disposals and acquisitions are dealt with by the council. It is for use by council officers and to inform developers and members of the public.
- 2.3 The updated framework sets out the council's internal policies and procedures relating to disposals and acquisitions of land and property. It ensures that the council operates in full accordance with statutory requirements.

**3. OPTIONS FOR CONSIDERATION**

- 3.1 The option for consideration is to approve the updated Property Portfolio Framework. (Appendix 1)

**4. ANALYSIS OF OPTIONS**

- 4.1 Adopting the recommendation would ensure that the council is able to meet its obligations under section 123 of the Local Government Act 1972 relating to the disposal of land and property.

- 4.2 For the acquisition of Land or Property the framework sets out, in sequence, the procedure to apply to the acquisition of land and property, covering acquisitions made to improve service delivery, investment purposes, and/or future development
- 4.3 The council will proactively consider the benefits of acquiring land and / or property, if this will help provide innovative and flexible solutions towards achieving overarching corporate priorities. Acquisitions may be considered for, amongst others, one or more of the following reasons:
- its contribution towards the provision of the Council's services and delivery of the council plan
  - economic development
  - strategic acquisition for regeneration or redevelopment purposes
  - it will provide a positive financial investment
  - revenue income generation from well secured investments

**5. FINANCIAL AND OTHER RESOURCE IMPLICATIONS (e.g. LEGAL, HR, PROPERTY, IT, COMMUNICATIONS etc.)**

**Financial**

- 5.1 The framework clearly outlines the process in relation to acquisition and disposal of land.
- 5.2 There are no other significant resource implications to highlight.

**6. OTHER RELEVANT IMPLICATIONS (e.g. CRIME AND DISORDER, EQUALITIES, COUNCIL PLAN, ENVIRONMENTAL, RISK etc.)**

- 6.1 In terms of crime and disorder the framework requires that proposals for acquisitions and disposals should demonstrate how safety and security have been taken into account.

**7. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)**

- 7.1 An integrated impact assessment would be completed through the application of the framework.

**8. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTERESTS DECLARED**

- 8.1 Legal and Democratic and Estates Services have been consulted and provided comments, proposed amendments which are reflected in the Framework.

## **9. RECOMMENDATIONS**

- 9.1 That the Cabinet Member approves the updated Property Portfolio Framework.

DEPUTY CHIEF EXECUTIVE AND EXECUTIVE DIRECTOR COMMERCIAL  
DIRECTOR: BUSINESS DEVELOPMENT

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**Background Papers used in the preparation of this report: None**

# **Appendix 1 (Capital Investment Strategy)**

## **NORTH LINCOLNSHIRE COUNCIL**

### **PROPERTY PORTFOLIO FRAMEWORK**

**2021 - 2025**

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## **DISPOSAL OF SURPLUS/UNDERUSED COUNCIL OWNED PROPERTY**

### **Introduction - General**

- 1.1 This plan details the Council's internal procedures relating to disposals and acquisitions of land and property. It sets out the Council's required policies and procedures including its statutory requirements.
- 1.2 Access to a supply of development opportunities is a vital ingredient in successful economic growth. A key role for the Council is to work with government, other public bodies, the private sector and the voluntary sector to unlock and accelerate the release of surplus public land and property assets to enable inward investment for the creation of new homes and employment opportunities. As part of this agenda we continue to consider how we can best use the Council's own land and property assets to their full potential.
- 1.3 The Council's property assets portfolio can and will enable and play a significant role in the Council meeting its outcomes of Safe, Well, Prosperous, and Connected as well as achieving its priorities around Growing the Economy, Keeping People Safe and Well, and Enabling Communities to Flourish. To provide clarity on the processes to deliver these ambitions, now is the right time for the Council to publish a formal plan which sets out how we propose taking this forward covering all areas of property activity including the Commercial Portfolio, the Disposal of Land and Property, the Operational Portfolio of assets as well as the Investment of Assets. This plan sits as an appendix to the Capital Investment Strategy.
- 1.4 This document is intended to promote expediency in the way that disposals and acquisitions are dealt with by the Council. It is for use by Council officers and to inform developers and members of the public.

### **Disposals**

- 2.1 This plan sets out, in sequence, the procedure to be adopted in connection with the disposals of land or property.
- 2.2 For the purpose of this document, a disposal of land means any freehold disposal, by sale or exchange, of Council owned land or buildings and any disposal by the granting of a license or lease.
- 2.3 It is important that each land or property disposal is treated on its own merits being considered on an asset-by-asset basis and nothing in this document will bind the Council to a particular course of action in respect of a land disposal. In particular and where the disposal is by the granting of a license, a short tenancy or the freehold disposal value is less than £10,000, the Council may adopt a streamlined procedure.
- 2.4 Alternative methods of disposal, not specifically mentioned in this document, may be used where appropriate, subject to obtaining Commercial Cabinet Member Approval.
- 2.5 The Council's actions in disposing of land are subject to legal statutory provisions; in

particular, to the overriding duty on the Council, under section 123 of the Local Government Act 1972. Local Authorities were given power under this act to dispose of land in any manner they wished, the only constraint being that, except in the case of leases for less than seven years, the sale has to be for the best consideration reasonably obtainable. Any other disposal at less than best consideration requires the approval of the relevant Secretary of State. It is Government policy to support the disposal of surplus local authority land and property whenever possible. Recent policy developments allow local authorities to exercise greater flexibility in the use of capital receipts secured from asset disposals. Generally it is expected that land should be sold for the best consideration reasonably obtainable. However, the Government recognises that there may be circumstances where an Authority considers it appropriate to dispose of land at an under value. However when disposing of land at an under value, authorities must remain aware of the need to fulfill their legal duty in a way which is accountable to local people. Other specific consents/processes may be required for disposal of land held for particular purposes (e.g charitable land, schools, allotment land or open spaces).

- 2.6 The General Disposal Consent (England) 2003 provides a general consent removing the requirement for Local Authorities to seek specific approval from the Secretary of State for a wide range of disposals at less than best consideration. Authorities are granted consent in circumstances where the undervalue does not exceed £2 million and where the disposing Authority considers the disposal is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of the whole or any part of its area or all or any persons resident or present in its area. It will be for the Council to decide whether any particular disposal meets these criteria or continues to require specific consent under the 1972 Act. Any proposed disposal at an under-value using well-being powers will require formal valuations to establish the level of under-value, taking account of the specific benefits the Council is obtaining and complying with the requirements of the RICS Red Book Global in tandem with the RICS Valuation- Global Standards 2017:UK National Supplement requirements and the current Ministry of Housing, Communities and Local Government Guidance.
- 2.7 This document should be read in conjunction with the Scheme of Delegation to Officers and Cabinet Member Delegations, Finance Procedure Rules and Contract Procedure Rules.
- 2.8 The Council has ambitions to maximise the levels of capital receipts secured going forward through robust strategic asset management principles in order to contribute to the funding of both the Councils revenue and capital budgets. This requires a new disposal strategy aligned with the Council's medium term financial plan and budget. The strategy is founded on an accelerated release of surplus land and property and prioritising resource to maximise the prospect of achieving the financial target set for this and future years. The accelerated release has brought forward the marketing of the majority of assets included in the previous 4-year disposal programme into the 2021/22 year. The proposed disposal programme is set out in Appendix 1 to this document. The programme also takes account of the Council's transformation themes and ambitions around Workwell, Corporate Landlord and One Public Estate to ensure the disposal programme compliments all those specific themes where possible.
- 2.9 The accelerated disposal programme comprises four key elements – sales by private treaty; sales by public auction; LDF challenge sites; and Asset Rationalisation. Dealing with each in turn, sales by private treaty will be delivered by the in-house Estates & Valuation team together with external support provided by agents. The procurement has now been completed and the Council has ten agents now available on a framework to utilise when its required from both a capacity and specialist nature. In terms of incentivising, it is proposed to give the private treaty sales an initial 6-month marketing with auction used as the backstop if sufficient sales are not achieved.

- 2.10 Auctions will be used more regularly as a sales mechanism to maximise the twofold advantages of comparative speed and certainty (for financial projections if sold) associated with this method of sale. The Council now has a good track record of successfully selling property via specialist property auctions.
- 2.11 In terms of challenge sites there are two categories – LDF Challenge and Asset Rationalisation. A number of sites have been identified as LDF challenge sites where it is considered the sites may have future development potential but as yet are not allocated and these are being progressed through both the Local Plan process and Strategic Development Team to bring these forward. In terms of asset rationalisation, it is envisaged that assets will be identified and released as surplus through the proposed rationalisation of the operational estate the Corporate Asset Management plan that fully takes account of Corporate Landlord principles and in conjunction with partnership initiatives such as the ‘One Public Estate’ initiative. It should be recognised that both the LDF challenge process and asset rationalisation represent medium term opportunities in respect of identifying additional properties for sale which will feed into future years disposals to replace those assets brought forward for disposal as part of the accelerated programme.
- 2.12 In terms of governance arrangements all proposed sales were previously reported monthly for approval. Under the Property Portfolio Management Strategy, the Director of Business Development will take a joint annual report outlining a programme of disposals and a quarterly report to update the Cabinet Member on progress. For consistency, the revised governance arrangements now include the scope of all other transactional work that is currently reported monthly i.e sales, investments lettings, easements, lease renewals, rent reviews etc.
- 2.13 Adopting the revised approach to dealing with property disposals as part of this strategy will streamline reporting arrangements while still giving the Cabinet Member oversight on progress achieved.

### **Definition of Surplus/Underused Property/Asset Rationalisation**

- 3.1 A building/site is deemed to be surplus to the Council’s requirements if:
- (a) it makes no contribution to the delivery of the Council’s services nor generates any net income, and
  - (b) it has no potential for future service delivery or strategic or regeneration/redevelopment purposes, or
  - (c) an alternative site has been identified which would achieve more cost-effective service delivery and the existing site has no potential for future alternative service delivery or strategic or regeneration/redevelopment purposes.
  - (d) it is deemed by the Corporate Property Officer that the most productive decision in line with business and asset rationalisation reasons is to release occupational property for the benefit to the Council and potential partners.
- 3.2 A building/site is deemed to be under-used if either:
- (a) the income being generated from the site from all or a substantial part of it is below that which could be achieved from:
    - (i) an alternative use
    - (ii) disposing of the site and investing the income
    - (iii) intensifying the existing use, or
- 3.3 Part of the site is vacant and is likely to remain vacant for the foreseeable future.



- 3.4 Strategic Asset Management may require the need for a disposal in certain circumstances such as:
- (a) where a building/site requires a considerable and disproportionate capital expenditure in relation to its use and benefit
  - (b) there would be a beneficial effect on the Council's surrounding assets
  - (c) a disposal would reduce revenue cost or resources needed including where the long-term cost of management and maintenance of the asset exceeds its value
- 3.5 Issues raised with 3.1, 3.2 and 3.3 will be subject to consultation and dialogue at Head of Service level taking account of a 'one council', whole place approach to property utilization and portfolio management

### **Site Identification and Development Objectives**

- 4.1 Sites for possible disposal may be identified through the following ways:
- (a) Housing and Employment Land Allocation Development document (HELADPD)/ Local Plan designation.
  - (b) Ongoing strategic asset management work undertaken by the Head of Service – Asset Management and Infrastructure and Head of Economy and Growth, which will identify through Asset Challenge new surplus land and property to be marketed for disposal, and through a corporate approach via the engagement of Heads of Service.
  - (c) Occupying services declaring specific sites as surplus to their on-going service requirements or under utilisation of the asset.
  - (d) Identifying previously unidentified surplus land from property terrier as part of the Asset Challenge process.
  - (e) Approaches by third parties including unsolicited approaches
  - (f) The identification of opportunities to generate income for the Council, e.g. by releasing existing restrictions, easements, covenants, etc of benefit to the Council on land previously disposed of by the Council or existing land/properties
  - (g) As enabling development to facilitate wider planning and/or corporate regeneration objectives.
  - (h) Via the Corporate Strategic Asset Management process, taking account of the Councils 'Fewest Best Asset' theme and Service delivery asset plans.
  - (i) It is also acknowledged that there will be occasions where the Council may wish to dispose of property that is not formally classified as surplus or considered to be under performing. Examples include disposals to developers for community regeneration schemes by way of asset backed vehicles or nominated registered housing associations for development of affordable housing.
- 4.2 Speculative development enquiries received from third parties such as commercial developers, occupiers and adjoining landowners will be encouraged and dealt with on a case-by-case basis based on their merits with cross council contributions invited towards assessing their suitability.

- 4.3 Where an asset is generating an income, a cost/benefit appraisal will be undertaken, in consultation with relevant officers from the Council's Financial Services team, to establish whether it is in the Council's best interests to dispose of the site.
- 4.4 Internal cross-functional dialogue should be initiated to assess whether the Council would wish to specify development objectives to be implemented by the purchaser (possibly within a development brief) as part of the disposal process.
- 4.5 The Council's approach to the maximisation of outcomes from the development and disposal of land will be determined by local planning policies. Where sites are already subject to a designated planning allocation, we will work within that, unless it is agreed that a revised approach is appropriate. Where there is uncertainty, the Council will work with its partners to consider options for use taking account of wider policies and objectives and site viability. The new Local Plan is due to be published in 2021 which will clarify some of these issues.
- 4.6 The Council does not intend to hold assets longer than necessary. In considering the timing and nature of the disposal the Council will seek to ensure that its asset disposals complement the objectives for the economic development and regeneration of the area.
- 4.7 Until such time as a property is formally declared surplus, the responsibility for its repair and maintenance will be the Corporate Landlord.

### **Site Investigations**

- 5.1 Once a potential site has been identified, the Group Manager Assets and Estates Management will consult with the necessary statutory authorities, as well as relevant officers in Legal Services, Planning Services and other necessary groups, to establish whether there is any development constraint or other constraint on the site, e.g. restrictive covenants and requirements to repay grants.
- 5.2 Ground investigation works, and desk studies into previous land use history, will also be carried out where appropriate (to the extent where potential purchasers will not be undertaking these themselves).

### **Consultation**

- 6.1 Consultation on asset disposals will be undertaken with deemed relevant parties. These might include, but not be restricted to, the following
- Town and Parish Councils
  - Elected Ward Members
  - Local Residents and Representative Groups and/or associations

### **Marketing Strategy**

- 7.1 The Heads of Service – Asset Management and Infrastructure and Economy and Growth will recommend a specific marketing strategy, either in-house or through appointed agents, for consideration by the relevant Director in accordance with Scheme of Delegations. All staff costs, legal costs, marketing costs, consultants costs etc. associated with any potential disposal of an asset will be offset against the capital receipt.

- 7.2 A list of potential disposal sites will be developed and formally updated on an annual basis. The list of sites will change subject to the outcomes of an ongoing Asset Challenge review process aimed at identifying operational assets that are potentially suitable for disposal. These will be included and noted within the quarterly report to cabinet member.
- 7.3 The Council will usually require purchasers to pay its reasonable Legal and Surveyor's costs incurred in progressing any transaction
- 7.4 Any for sale details prepared by the Council as an aid to marketing any land or property will be prepared in accordance with Consumer protection legislation.

## Timing

- 8.1 The timing of any marketing/disposals will be considered against the following:
- The background of the Council's budgetary requirements and Capital programme requirements.
  - The current state of the property market
  - The present transaction activity.
- 8.2 Before recommending that a disposal is to proceed, the following factors are to be taken into consideration:
- □ Potential for the site value to increase in the future
  - □ Regional Planning Guidance and the Local Plan – this will influence decisions on the disposal and acquisition of land, as well as the future use of Individual sites.

## Valuations

- 9.1 The valuation of sites will be undertaken by an accredited valuer under the RICS Valuation Scheme. Where a disposal is in respect of a major or complex site, additional independent valuation advice may also be sought. Independent advice is to provide a safeguard for the propriety of the Council's transaction, particularly if a situation arises where there has not been an open, competitive process - for example transacting with a special purchaser. The advice may include assistance with negotiations with the prospective purchaser.
- 9.2 Prior to proceeding with any building/site marketing or disposal, an assessment shall be made of whether or not the Council should obtain either outline or detailed planning permission, which may or may not enhance its value and market attractiveness. The Director of Business Development/Deputy Chief Executive will be authorised to make this decision.

## Method of Disposal

- 10.1 The Heads of Asset Management and Infrastructure and Economy and Growth will recommend a method of disposal e.g. Auction, Private Treaty etc., for approval by the Director of Business Development/Director Operations. The method of disposal will be assessed and determined on a case by case basis. All issues relating to the land or property, including best consideration, best value, sustainability, social value, environmental, and economic benefit and legal issues and agreements, will need to be

taken into account when determining the method of disposal in addition to the Councils ambitions and objectives.

- 10.2 Unless a “special purchaser” has been identified i.e. one who is prepared to pay a premium for the site (over and above market value), all potential purchasers are to be given an opportunity to tender/submit an offer, according to the method of disposal recommended.
- 10.3 Where appropriate, the Council will give due consideration as to whether it will wish to dispose of a freehold interest in a building/site or alternatively a long lease whereby it may be able to retain some long-term control or potential income.
- 10.4 Where the disposal is to be by way of a long lease, the Director of Governance and Partnerships will be consulted to assess the implications regarding VAT, Capital Controls and Treasury Management.
- 10.5 The Council will usually use but does not restrict itself to one of five means to dispose of land. Further guidance upon when it will be appropriate to use any particular means of disposal is contained in Annex 1. The means of disposal are:
- **Private treaty** – a sale of land negotiated with one or a small number of purchasers. The land may or may not have been marketed as available for sale. A binding legal agreement is created on ‘exchange of contracts’ between the Council and the purchaser.
  - **Public Auction** – a sale of land by open auction available to anyone. The sale will be publicly advertised in advance. The auctioneer creates a binding legal agreement upon the acceptance of a bid.
  - **Formal Tender** – a sale of land by a process of public advertisement and submission of tenders by a given date in accordance with a strict procedure. The Council creates a binding legal agreement upon the acceptance of a tender.
  - **Exchange of Land** – a transaction involving the exchange of Council owned land with another landowner. The land acquired by the Council will meet at least one of its corporate objectives and will be at least ‘equal’ to the land exchanged.
  - **Informal Negotiated Tender** – a sale of land after a public advertisement that requests informal offers or bids that meet a given specification of set of objectives. The Council may then negotiate further or more detailed terms with one or more individuals submitting the most advantageous bid or bids. A binding legal agreement is not created until the exchange of contracts between the authority and the chosen bidder.
  - **Joint Venture/Shared Profit** - Where a redevelopment proposal includes Council land or property and adjoining land, the Council may choose to pursue a joint development with the adjoining landowner and/ or Developer or Registered Social Landlord (RSLs). The details of a joint venture/development agreement are likely to vary from scheme to scheme but will broadly involve sharing the cost, risk and return associated with any project. The benefits and risks of pursuing this method of disposal would require a detailed assessment as part of the appraisal for the development. This is likely to be a viable option for larger scale redevelopment projects only

## Approval Process

- 11.1 Other than those already approved as part of the annual delivery plan, approval for all other proposed acquisitions/ disposals depends on the market value. The following approval values in the box below are in line with the Councils key decision requirements.

The definition of a key decision means an “executive decision which is likely to result in the Council incurring expenditure or the making of savings (including the receipt or loss of income) over £350, 000 in any one financial year or to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.”

Approval for the disposal or acquisition of property will be determined in accordance with the values specified in the following table. All such approvals will be recorded in an Officer Decision Record signed by the relevant approving officer a copy of which will be provided to Democratic Services for publication in accordance with the Council’s constitutional requirements.

<b>Value</b>	<b>Approving Officer</b>
Assets with a lease value below £35,000 per annum and a sale/acquisition value below £350,000.	Head of Service – Asset Management and Infrastructure (Operational Property), <b>or</b> Head Economy and Growth (Commercial Land and Property)
All other Assets > £350,000 or above in sale/acquisition value and or > £35,000 or above in lease value per annum	Director Operations (Operational Property), <b>or</b> Director of Business Development (Commercial Land and Property) in consultation with Cabinet Member with portfolio responsibility for Property and Asset Management matters. <b>**A key decision notice must be published before such decision is taken.</b>

\*\* A flowchart can be found at appendix 1.

### **Cabinet Member Approval**

12.1 As mentioned in 2.13 above, the Director of Business Development will take a joint report annual report outlining a programme of disposals and a quarterly report to update the relevant Cabinet Member on progress. This document is based on the disposal strategy applicable to a four-year period.

### **Negotiations**

13.1 The capital receipt from any disposal is to be maximised unless there are overriding factors identified in the Council Plan that take precedence over the receipt of capital.

13.2 Where it is considered that a site should be disposed of at a price below open market value, the matter is to be reported to the Director of Business Development or Director Operations, prior to the disposal. A disposal of land at a price below open market value may require the consent of the relevant Secretary of State under the provisions of the Local Government Act 1972.

13.3 A timescale for the development of any land will be agreed with the prospective purchaser. If appropriate the purchaser will enter into a conditional contract or Development Agreement that sets out the required development obligations. If the land is not developed in the agreed timescale then the Council should have the opportunity to either terminate the contract or Development Agreement or, if a disposal has occurred, to repurchase the land at the original sale price or the current market value whichever is the lower. This is

to prevent purchasers 'land banking' and benefiting from any future increases in land values.

### **Money Laundering**

- 14.1 All transactions should be carried out in accordance with the Councils Contract Procedure Rules.

### **Instructions**

- 15.1 Once a potential purchaser has been identified and all the terms of the disposal have been agreed (or earlier if appropriate), Legal Services will be instructed using the Legal Instruction Proforma to prepare the relevant legal documentation. A programme detailing anticipated timescales to completion will be reported.

### **Completion**

- 16.1 Once the disposal has been completed, Legal Services will advise the relevant officer.
- 16.2 Any residents who were consulted or had sent correspondence in will receive letters informing them of the outcome of the disposal.

## **ACQUISITION OF LAND AND PROPERTY**

### **Introduction**

17.1 This part of the strategy sets out, in sequence, the procedure to apply to the acquisition of land and property, covering acquisitions made to improve service delivery, investment purposes, and/or future development

### **Reasons for the acquisition of Land or Property**

18.1 The Council will proactively consider the benefits of acquiring land and/ or property, if this will help provide innovative and flexible solutions towards achieving overarching corporate priorities. Acquisitions may be considered for, amongst others, one or more of the following reasons:

- its contribution towards the provision of the Council's services and delivery of Corporate aims
- economic development
- strategic acquisition for regeneration or redevelopment purposes
- it will provide a positive financial investment
- revenue income generation from well secured investments

"Well secured" investments are those where income is as certain as possible (ie, voids are expected to be low) and which are:-

- in established locations, where demand is (and is likely to remain) strong
- used for commercial purposes that will continue to be attractive
- expected to deliver strong rental growth
- subject to long, risk free, leases
- occupied by financially solid, class A+ tenants
- made up of well-constructed and specified buildings
- relatively liquid (ie, easy to sell in normal market conditions)

18.2 The existing commercial property portfolio currently achieves a total annual rental income of circa £3.7 million.

18.3 There is a target to generate additional rent of £1million phased over three years commencing in 2022/23 i.e to increase rental income by £350,000 per annum up to 2020. Accordingly, the Council has undertaken a strategic review of the existing commercial property portfolio and examined alternative models of delivery for a new property investment strategy. Following this, an action plan for the existing commercial property portfolio management alongside future acquisitions and investment was developed (Appendix 3) that covers two main strands of activity:

- Acquisition of investment properties to achieve the ambitious income growth targets through the expansion and diversification of the existing commercial property portfolio.

- Generation of additional income from the existing commercial portfolio through a range of asset enhancement initiatives.

18.4 The strategy to achieve the ongoing target referred to in paragraph 18.4 above is twofold – (i) maximize return from the existing portfolio; and (ii) identification and acquisition of investment properties in North Lincolnshire. In respect of point (ii) consideration will also be given to extend the acquisition activity to a wider geographical area, whilst simultaneously identifying suitable opportunities for speculative development by the Council to maximise the prospect of achieving the overall target.

## **Market Research**

19.1 Once a need to acquire property is established, market research will be carried out by the Head Economy and Growth to establish whether suitable land or property is available on the market to fulfil this need and a report will be submitted to the Director Business Development.

19.2 The Criteria against which any decisions are made in respect of an acquisition will include, where appropriate:

- price
  - Yield – please see para 20.3 below
  - Nature of the tenants current business
  - Age of the property
  - Covenant strength
  - Repairing Terms
  - Risk profile of business, tenure etc
  - Fit with the portfolio mix and attempt to balance the mix to mitigate risk.
  - condition of property
  - Social value
  - planning policy
  - development constraints
  - availability (in terms of timing)
  - nature and length of tenure being offered (freehold or leasehold)
  - occupational tenancies/vacant possession
  - locational advantages (where a strategic acquisition is under consideration)
  - return on investment (where a revenue generating asset is being considered)



## Land Acquisition Framework

Criteria	Weighting	4 Excellent	3 Very Good	2 Good	1 Acceptable	0 Marginal
Location	12	Major Prime	Macro Prime	Major Secondary	Macro Secondary	Rural
Planning Status	10	Outline Planning	Allocated within the Local Plan	Unallocated land but inside the development boundary	No Planning and outside development boundary	No Planning and Grade 1 or 2 Agricultural Land
Transaction Type	9	Option agreement linked to development funding	Option agreement with no links	Option agreement with freehold trigger points	Freehold transaction with profit share	Freehold transaction
Use	5	Commercial (Unrestricted)	Commercial (Restricted)	Housing (restricted)  Or option for Commercial (restricted)	No use identified	Agricultural Land
Examples		This would be land already allocated with outline planning based within an existing commercial setting with strong infrastructure links. Option agreement would be based on NLC obtaining funding and end user for development	Land would be located close to an existing commercial development and allocated within the Local Plan. Option agreement would be for a set period with no links to development funding	Land unallocated but inside the development boundary with options for housing and/or commercial use. Agreement would be linked to trigger points (such as obtaining planning)	Land is outside the development boundary and based within a rural location. No use identified and contrary to local plan. The transaction would be a freehold transaction with a future profit share.	Land is grade 1 or 2 agricultural land, outside development boundary with little prospect of obtaining planning. The transaction would not be an option agreement but a freehold transaction.

## Property Acquisition Framework

Criteria	Weighting	4 Excellent	3 Very Good	2 Acceptable	1 Marginal	0 Unacceptable
Location	12	Major Prime	Micro Prime	Major Secondary	Micro Secondary	Tertiary
Tenancy Length	10	Single tenant with strong financial covenant	Single tenant with good financial covenant	Multiple tenants with strong financial covenant	Multiple tenants with good financial covenant	Tenants with poor financial covenant strength
Tenure	9	Freehold	Lease 125 years plus	Lease between 50 & 125 years	Lease between 20 & 50 years	Lease less than 20 years
Occupiers Lease Length	5	Greater than 10 years	Between 7 & 10 years	Between 4 & 7 years	Between 2 & 4 years	Less than 2 years; vacant
Repairing Terms	4	Full repairing & insuring	Internal repairing – 100% recoverable	Internal repairing – non recoverable	Internal repairing – non recoverable	Landlord
Lot Size	2	Between £6m & £12m	Between £4m & £6m or £12m & £18m	Between £2m & £4m or £18m & £20m	Between £1m & £2m or £20m & £25m	Less than £1m or more than £25m

- 19.3 Where a number of potentially suitable properties exist in the marketplace, robust comparisons and due diligence will be carried out to establish which is the most suitable towards meeting the Council's needs.
- 19.4 Property Investment is a trade off between risk and return. A traditional well diversified property portfolio spread across different property sectors will deliver a balanced long term return with minimal risk.
- 19.5 This strategy will adopt the same underlying principles of diversification in acquiring property investments offering a similar return profile. The three main property sectors will be included (industrial, office and retail) and in turn these will be diversified on criteria including location, the tenants financial covenant strength, lease term (income duration) and investment lot size. This will assist in protecting the Council portfolios return should a property investment cease to be income producing.

## Financial Appraisal

- 20.1 As referenced in paragraph 18.1 above, an acquisition could be to deliver a range of objectives – investment, regeneration, infrastructure etc. Accordingly, whatever the specific rationale, where there is an identified requirement for an acquisition, the promoter/project lead will be required to provide a detailed business case including a full financial/viability appraisal to establish the financial and budgetary implications associated with the proposed acquisition. This must include early consultation and obtaining advice from the Director of Governance and Partnerships on all associated financial implications so these are understood at the earliest opportunity. In consultation with the Director of Governance & Partnerships, an acquisition proposal will include a financial appraisal that consider the following, as appropriate:
- the capital cost of acquisition
  - any revenue, or potential revenue (or future sell on value?), generated from the property, both short and long term (return on investment)
  - availability of external funding sources
  - internal resourcing required
  - development procurement options including joint ventures
  - risk assessment
  - the cost, in Asset Management terms, of owning the property, including:
    - o immediate maintenance/refurbishment requirements
    - o demolition costs, if appropriate
      - o ongoing maintenance/life cycle costings
    - o national nondomestic rates including empty rates liability
    - o insurance
    - o the overall effect of the expenditure on the Council's budgetary position.
- 20.2 Property investment assets can provide a secure income and good return compared to other forms of investment. The performance of the investment estate is analysed by considering the return or yield generated. A yield is the income return of an Investment and is represented as a percentage. The gross yield is the rental income divided by the asset value and the net yield is the rental income less costs associated with holding the property divided by the asset value. An investment portfolio should

comprise a good mix of properties to spread risk and ensure you don't hold too many properties of the same type.

- 20.3 The Council need to evaluate each potential investment on its own merits, however the Council need to look to invest in commercial property which realise the following principle returns. An income stream with a minimum Internal Rate of Return of not less than 10% or An income stream with a positive Internal Rate of Return of less than 10% but with social value opportunities as outlined below and a full business case these could reduce. The 10% is a guide to assess the investment.

North Lincolnshire Council is required to consider how the economic, social and environmental well-being of North Lincolnshire might be improved through the investment in property and land, defined as:

**Activities that will improve the quality of communities & improve outcomes for North Lincolnshire residents and enhance the economic sustainability of the area.**

The council plan, which describes the steps that the Council will take to improve outcomes for residents, businesses and service users, contains four overarching goals:

- Equality of opportunity
- Excellence
- Self Responsibility
- Integrity

Each year the Council spends millions of pounds securing services designed to keep people safe and well, maintain flourishing communities and to grow the economy.

In performing these roles the Council engages with residents and works in partnership with providers in the public, private as well as voluntary & community sectors. At all times the Council must secure value for money and demonstrate that public funds are being stewarded responsibly and equitably.

The six tests of Social Value are:

**promote employment and economic sustainability** – tackle unemployment and facilitate the development of skills

**improve outcomes of local residents and businesses** – pay the living wage, maximise employee access to entitlements such as childcare and encourage suppliers to source labour from within North Lincolnshire

**promote participation and engagement** - encourage resident participation and promote active communities

**build the capacity and sustainability of the voluntary and community sector**– practical support for local voluntary and community groups

**promote equity and fairness** – target effort towards those vulnerable or facing the greatest disadvantage and tackle deprivation across the area

**promote environmental sustainability** – reduce wastage, create green openspace, limit energy consumption and procure materials from sustainable sources

## **Valuation**

- 21.1 Valuation advice will be provided by a suitably RICS qualified surveyor in line with the approval process noted at paragraph 11.1.1.
- 21.2 Where an acquisition is in respect of a major or complex site, additional independent valuation advice may also be sought. Independent advice is to provide a safeguard for the propriety of the Council's transaction. The advice may include assistance with negotiations with the vendor.
- 21.3 Where independent advice suggests that the true Open Market Value of the property is below the asking price and there are overriding factors which justify the purchase, a report shall be prepared for Director of Business Development to make a decision on the sale.
- 21.4 Where the acquisition is to be by way of a long lease, the Director Governance and Partnerships will be specifically consulted to assess the implications regarding VAT, Capital Controls and Treasury Management.

## **Negotiation**

- 22.1 Following preliminary investigations and the possibility of an acquisition has been established, the Head of Service Economic Growth will prepare a report for the Director of Business Development to obtain agreement in principle to proceed, identifying a budget for the acquisition. If approval to proceed is secured, negotiations commence with the vendor by the Group Manager – Economic Development. Where the acquisition is by auction or tender, bids will be formulated as appropriate.

## **Approval to Purchase**

- 23.1 Any offer to the vendor will be made "subject to contract, council approval and, where appropriate, survey" The approval process is determined by the value of the proposed acquisition and the delegations set out 11.1.1 apply.

## **Instructions**

- 24.1 Once formal approval is confirmed in line with 11.1.1, and any surveys satisfactorily carried out (or earlier if appropriate), Legal Services will be instructed to complete the documentation associated with the acquisition.

## **Completion**

- 25.1 Once the acquisition has been completed, Legal Services will advise the relevant officer.

## **Compulsory Purchase**

- 26.1 Where appropriate the Council may consider the acquisition of land or buildings through the use of compulsory purchase powers.
- 26.2 Powers of Compulsory Purchase are conferred to local authorities by legislation. These powers can be used where the owner or occupier of the land required is not willing to sell by agreement or where agreement has not been able to be reached through negotiation.
- 26.3 Compulsory Purchase is a detailed multi-stage statutory process necessitating Government Ministerial approval before such powers can be used. Where Compulsory

Purchase powers are used, the affected owners are generally entitled to compensation which is determined by statute. Advice will be sought from Legal Services and the appropriate Head of Service at the earliest opportunity for any cases where consideration is being given to acquisition using Compulsory Purchase Order powers.

### **Money Laundering**

- 27.1 All transactions should be carried out in accordance with the Council's Contract Procedure Rules.

### **Internal and External Audit**

- 28.1 Audit trails of all acquisitions and disposals will need to be maintained and accessible by Internal and External Audit to verify actions/values and how the authority made the decision to acquire/dispose. Any appointment of a third-party consultant must reserve the right of access to their records in relation to the transaction.

## DESCRIPTION OF LAND DISPOSALS

### Disposal by Private Treaty

- 1.1 A disposal by Private Treaty may take place after a period during which the land is put on the market including advertising and generally making known that it is available for sale. In this case, the Council will be able to consider the highest bid as representing the best consideration that can be reasonably obtained.
- 1.2 If land is to be sold by Private Treaty without being marketed, then the reasons justifying a private sale must be recorded in writing. In some circumstances the Council may seek an additional independent valuation to verify that 'best consideration' is being obtained in the current market. Negotiations are to be fully documented.

A private sale without the land being marketed may be justified where:

- (a) the land to be disposed of is relatively small in size and an adjoining or closely located landowner is the only potential or likely purchaser.
  - (b) the nature of the Council's land ownership and that of the surrounding land ownership is such that the land must be sold to adjoining or surrounding landowners if best consideration is to be obtained.
  - (c) the Council's land is part of a larger area of land that is proposed for development, redevelopment or regeneration where the nature and complexity of the proposed development of the overall site is such that the Council's corporate objectives and best consideration can only be achieved by a sale to a purchaser with an existing interest in land in the area.
- 1.3 A legally binding agreement will not be reached until either contracts for the lease or sale of land are exchanged or a development agreement is signed.
  - 1.4 Where a number of parties have expressed interest it may be appropriate to invite "best and final offers". Where it is used, all of the parties should be invited to submit their "best bid" within a certain timeframe (subject to contract). This procedure may carry risks in that some parties may not wish to proceed on this basis and withdraw.

### Disposal by Public Auction

- 2.1 Sale by public auction may be appropriate where there is no obvious potential purchaser and where speed and the best price achievable is likely to be realized by auction.
- 2.2 Unless otherwise approved as part of the annual delivery plan, any other proposed sale by auction, must record the following for approval by the Director of Operations or Director of Business Development in consultation with the Cabinet Member:

- (a) the reasons justifying a sale by public auction;
- (b) the reserve price, if any, for the auction;

2.3 The contract for sale or lease must be ready for exchange at the auction.

2.4 A binding contract will be made on the acceptance of the highest bid providing it has reached the reserve price. Contracts for the sale or lease will immediately be signed on behalf of the Council and exchanged with the purchaser.

### **Disposal by Formal Tender**

3.1 A sale of land by formal tender may be appropriate where the land ownership is not complex and the Council is seeking obligations to be placed on the successful tenderer which are clear and capable of specification in advance. For example; the disposal of land to a developer with an obligation to build industrial units for lease, or the conservation of a listed building. In such instances, a process of formal tender may be appropriate in gaining best consideration.

3.2 Formal tenders will not be appropriate where the land ownership position is complex or the development proposals for the land are insufficiently identified or otherwise incapable of detailed specification at the pretender stage.

3.3 The reasons justifying a sale by formal tender must be properly recorded as part of the decision making process authorizing the sale of the asset in question.. The Council's rules for tender offers contained in the Contract Procedure Rules will be followed at all times.

3.4 The nature of the formal tender process is that a legally binding relationship is formed when the Council accepts a tender in writing. It is essential therefore, that every aspect of the disposal is specified in the tender documents. The tender documents should include a contract for sale or lease which should be completed with the tenderer's details, the tender price and be signed by the tenderer. It will be released unconditionally to the Council on submission of the tender.

3.5 Sale of land by formal tender will require a detailed specification to be prepared. This will specify the land to be sold, any requirements to be met by the tenderer and any obligations that must be met.

3.6 The Council will place a public advertisement seeking expressions of interest and publicise the selection criteria by which it will assess tenders. Those individuals selected will then be invited to submit their tender bids.

### **Disposal by Exchange of Land**

4.1 Disposal by exchange of land will be appropriate when it is advantageous to the Council and other parties to exchange land in their ownerships and will achieve best consideration for the Authority.

4.2 A binding legal agreement will be created when a contract is exchanged for the exchange.

4.3 The exchange will usually be equal in value. However, an inequality in land value may be compensated for by other means where appropriate. For example, where the Council in exchange for a larger piece of land receives a smaller piece of land but the



recipient of the larger plot agrees to build industrial units on the Council's smaller area to equalise the consideration. In such circumstances the Council may seek an independent valuation (as outlined at 11.1.1) to verify that 'best consideration' will be obtained.

### **Disposal by Informal / Negotiated Tender**

- 5.1 A disposal by informal / negotiated tender differs from a formal tender in that neither the Council nor the successful bidder is legally obliged to enter into a contract for the disposal of the land. The informal / negotiated tender process allows the Council to identify one preferred bidder with whom it may then negotiate further detailed terms or proposals for the development of the land concerned.
- 5.2 The Council uses a public advertisement to request informal development proposals for land that meet a given specification. This process is particularly useful for large or complex development or regeneration sites requiring development and where the proposals may need to be developed in cooperation with the preferred bidder to meet the Council's corporate objectives and to achieve the best consideration that can be reasonably obtained.
- 5.3 The Council's rules for tender offers contained in the Contract Procedure Rules will be followed at all times in respect of the receipt of tenders. Any exceptions to that process must be authorised by the Director of Operations or Director of Business Development and recorded in accordance with these Rules.
- 5.4 A binding legal agreement is not created until the exchange of contracts for sale or lease or the signing of a development agreement.

### **Joint Development/Venture**

- 6.1 We will explore the options with regard to potential Joint Development and Ventures where appropriate to the proposed investment and benefit to the Council in line with the procedures outlined at 11.1.1.

### **Exceptions**

- 7.1 Other methods of disposal may be used where circumstances warrant them.

### **Sale Price**

- 8.1 It will be the responsibility of the Council to ensure that the building / site is properly marketed to maximise price competition and obtain the best price obtainable in the market and if necessary that independent professional advice is taken on its value. The price may be lower than expectations due to the current state of the market but that will still constitute a market price.
- 8.2 There may be other benefits to the Council in a disposal including the enhancement of its other assets; the opportunity to deliver Council objectives including Local Plan policies; promoting economic benefits; or the disposal of a liability. Any such factors should be recorded and evaluated.
- 8.3 In considering what amounts to 'monetary value' in terms of best consideration to be obtained, the creation of jobs or desirable social outcomes, will be considered by the Council as part of its general powers of wellbeing under the Local Government Act 2000.

- 8.4 Where there is a prospect of future planning status or development generating additional site value but where a valuation cannot define this “hope value” at the time of sale, clawback conditions should be considered in the terms of the sale. Any clawback conditions should be listed in the Asset Register.
- 8.5 A party such as a tenant may be able to offer a greater amount for a property due to the release of “marriage value”. Where there is a disposal of a property with an existing tenant, the tenant should be approached as a potential purchaser. An appropriate share of marriage value should form part of any negotiations where appropriate.

### **Late Bids and Other Considerations**

- 9.1 Guidance from the Local Government Ombudsman recognises the problem caused to local authorities by ‘late bids’. The Guidance states that difficulties are less likely if Councils ensure that exchange of contracts take place as quickly as possible after the decision to sell (or lease) is made. It suggests that local authorities should be allowed to sell at an agreed price within a reasonable period of reaching a ‘subject to contract’ agreement.
- 9.2 In the context of the methods of land disposal dealt with in this document, a late bid may occur:
- (a) in the case of a private sale, after a sale or lease has been agreed, but before exchange of contracts
  - (b) in the case of a public auction, after the auction has been closed, but the reserved price not having been met.
  - (c) in the case of a formal tender, after the closing date for tenders, but before selection of the successful tender.
  - (d) in the case of an informal or negotiated tender, after receipt of bids, but before exchange of contracts or signing of a development agreement.
  - (e) in the case of disposal by exchange after, a sale or lease has been agreed, but before exchange of contracts.
- 9.3 Each ‘late bid’ must be considered in the context of the individual circumstances at the time. The Council’s approach to ‘late bids’ will vary depending upon the method of land disposal used. In each case, its general overriding duty will be to obtain best consideration that it can reasonably obtain. The Council’s approach to late bids is as follows:
- (a) The Council discourages the submission of late bids in all cases when it is disposing of land. It will attempt to minimise problems by aiming for early exchange of contracts.
  - (b) Where land is being disposed of by way of formal tender, bids received after the deadline for tenders, will not be considered.
  - (c) Late bids cannot be considered where land is being disposed of by public auction after a successful bid has been accepted.
  - (d) Except as provided herein, until the Council has entered into a legally binding contract or agreement with another person it will consider late bids unless there are good commercial reasons for not doing so. This should be explained to any purchaser when a disposal of land by private sale or negotiated/informal tender is agreed.

- (e) Consideration of a late bid does not mean that it will necessarily be accepted even if it is the 'highest' bid. The Council will take into account the likelihood of the late bid proceeding to completion in a timely manner and the possibility of late bids being used as a spoiling or delaying tactic.
- (f) Subject to the above, the Council may, in appropriate circumstances, as both the late bidder and the person to whom the land was previously to have been sold, invite both parties to submit their last and final bids in a sealed envelope by a set deadline.
- (g) A decision on whether to accept a late bid for a private sale, informal tender or by exchange are to be made either by the Executive or delegated powers.

9.4 A last minute bid may be rejected for sound commercial reasons. For example, if there is no real certainty of it leading speedily to a contract or is suspected as a spoiling bid.

# Appendix 1

## Decision Flowchart

