

CITY OF  
WOLVERHAMPTON  
C O U N C I L

Land and Property Disposal Policy

March 2022

**City Assets**

# DRAFT

This document is available to download on the Council's website at: [Property For Sale and To Let | City Of Wolverhampton Council](#)

If you have any queries regarding this policy, please contact either:

[property.enquiries@wolverhampton.gov.uk](mailto:property.enquiries@wolverhampton.gov.uk)

Or write to us at:

City Assets – For the attention of Head of Assets  
Civic Centre  
St. Peter's Square  
Wolverhampton  
WV1 1RL

All opportunities to acquire Council owned land and property for sale are listed here:

<https://www.wolverhampton.gov.uk/business/business-property/property-sale-and-let>

This document was produced in March 2022 and will be revised when required.

# Foreword

One of the Council's priorities under Our City: Our Plan is to change how the Council uses its land and property to enable transformation within our communities. In order to achieve this change, the Council must continually review its land and property holdings and release those assets which no longer serve the public. This allows the surplus land and buildings to be brought back into beneficial use, whilst generating a capital receipt and reducing the Council's revenue costs. Generating money, capital and revenue, from surplus assets then allows the Council to reduce its borrowing and re-invest savings into the services which we deliver.

This document has been prepared for the benefit of all stakeholders and details the policy around how disposals of surplus land and property will be managed with the aim of providing stakeholders with a clear framework within which the Council carries out land and property disposal transactions.

The policy is in place to provide transparency and demonstrate compliance with legislative and best practice requirements in order to ensure the Council achieves the best possible outcomes for the City and its residents when disposing of its surplus stock.

The golden thread throughout this policy is the Council's duty to obtain best consideration for its surplus land and property assets. There is both an ethical and statutory duty to obtain the best value for surplus land and property and the Council holds its fiduciary duty to the public when divesting of assets in the highest regard.

Disposals are managed primarily by the Council's City Assets Team which has the benefit of professionally qualified members of staff who are held to the highest global standards through their profession, Royal Institution of Chartered Surveyors, along with the highest standards demanded by the Council, its constitution, and the public which it serves.

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## 1.0 Introduction

- 1.1 This policy will primarily be followed by the Council's City Assets Team, as City Assets is responsible for the process of disposing of surplus land and property.
- 1.2 City Assets is responsible for the overall management of the Council's land and property portfolio. This portfolio contains a wide range of assets such as schools, community buildings, offices, industrial units, retail units and open space.
- 1.3 Land and property is a resource which is used by service areas of the Council, it's partners and community organisations to deliver their services.

- 1.4 Over time, service delivery changes in response to customer needs which can result in land and property becoming underutilised and surplus to requirements.
- 1.5 It is the identification of underutilisation of such resources and opportunities to enhance service delivery through more efficient use of the retained estate, which is key to maintaining an efficient portfolio.
- 1.6 City Assets is responsible for ensuring the Council maintains and operates a cost effective and user focussed retained estate. If an opportunity arises for an asset to be classified as surplus and disposed of through better utilisation of the retained estate, it is City Assets which will commence consultation with stakeholders to test whether the asset is surplus to requirements in accordance with this policy.
- 1.7 Surplus land and property represents an opportunity to sell such assets in order to generate a capital receipt, reduce running costs and bring the asset back into beneficial use.
- 1.8 Disposal of surplus assets is not simply a financial exercise, the Council is committed to regenerating the City and bringing assets back into beneficial use. An asset which the Council no longer requires could be brought back into use as residential accommodation, additional employment facilities, car parking, additional leisure facilities and community buildings - all of which ensures a vibrant and attractive economy for use by residents and visitors.
- 1.9 The money raised and saved from disposing of surplus assets enables the Council to re-invest into public services, reduce borrowing and benefit from a reduction in revenue expenditure.

## **2.0 Aim of Policy**

### **2.1 Overall**

- 2.1.1 Sound asset management and government policy requires local authorities to dispose of surplus land and property wherever possible.
- 2.1.2 The Council's commitment to sound asset management is demonstrated in its Strategic Asset Plan. This document is the primary driver in identifying opportunities to dispose of surplus land and property (a link to this plan is included in 2.10 below).

2.1.3 Land and property may be considered surplus when it is no longer required for current or future service delivery.

2.1.4 This policy clearly outlines the process, considerations and governance involved when declaring land and property surplus to requirements and its subsequent disposal following approval.

2.1.5 This policy is intended to work in conjunction with both legislation (*The Local Government Act 1972*) and the Council's constitution to form a consistent and transparent structure which determines how surplus land and property is disposed of.

2.1.6 This policy aims to provide the stakeholders below with confidence, through a clear and robust framework, that the disposal of surplus land and property is managed fairly, transparently and effectively to achieve the best possible outcomes for the City:

- The public
- Councillors
- Members of Parliament
- Council officers
- Investors
- All other interested parties

2.1.7 The Council may encounter circumstances where the contents of this policy are incompatible with a proposed disposal. This may be, for example, a larger and more complex sale where a report will be taken to Cabinet and/or full Council seeking authority to an alternative approach in the best interests of all stakeholders.

2.1.8 This policy excludes the Right to Buy scheme which is governed under separate legislation.

2.1.9 This policy excludes disposal of assets under a Community Asset Transfer which is dealt with in the Council's Community Asset Transfer Strategy:

<https://www.wolverhampton.gov.uk/business/business-property/community-asset-transfer>

## 2.10 Definitions

### **Asset**

Land, property or both

### **Best consideration**

Achievement of maximum value through a sale.

*Best consideration is often misunderstood as the maximum price only. Whilst achieving maximum price is a component of best consideration, there can also be wider components to consider such as social, economic and environmental values which a disposal can deliver in lieu of monetary consideration.*

## **Disposal**

Any disposal of the freehold interest in land/property by sale or exchange

*Section 123 of the Local Government Act 1972 also defines a disposal as grant of a lease term exceeding seven years. This policy is concerned with the disposal of freehold interests only, where the Council divests of the asset permanently*

## **Individual Executive Decision Notice (IEDN)**

A report which is presented to the Cabinet Member for City Assets and Housing along with the Director for City Assets and Housing and outlines the background, progress, recommendation and alternative options for a proposed disposal

This report is reviewed and signed off by both Strategic Finance and Legal Services before it is presented for approval

## **Overage**

Overage is the obligation (under Deed) for the purchaser of surplus Council land/property to pay to the Council a future sum of money, in addition to the transacted purchase price, if a future condition is satisfied rendering the asset of higher value than originally sold for

## **Restrictive covenant**

A restriction placed upon the title of land/property by the Council at point of sale to restrict the use of said land/property for the benefit of adjoining retained Council owned land

## **Retained estate**

The Council's operational portfolio which is made up of the assets required to ensure the Council's service delivery remains uninterrupted

## **Special purchaser**

An individual, individuals or a company owning a land/property interest directly adjoining surplus Council owned land property. The value of the Council's land/property interest to the market would be less than its value to the adjoining special purchaser.

## Strategic Asset Plan

This plan outlines the Council's approach to strategic asset management, to ensure it holds a dynamic asset portfolio able to meet the evolving needs of service users:

<https://www.wolverhampton.gov.uk/business/policies-and-procedures-business>

## Surplus

Land/property will be deemed a surplus when it is any or all of the following:

- No longer required by the Council for delivery of services
- Underutilised
- Has no strategic or regeneration purpose
- Makes no active contribution to sustaining the natural and/or historic environment (built or otherwise).

## Underutilised

An asset that is partially or inefficiently occupied, resulting in part of the asset being vacant with no future identified use or the asset being fully occupied but the service operating can be accommodated through more efficient use of another operational asset.

## 3.0 “Open door” approach

### 3.1 Stakeholder engagement

3.1.1 The Council holds a vast land and property portfolio which is continually under review to understand whether or not it can be rationalised to create a more efficient estate and release underutilised assets for better use.

3.1.2 In addition to the City Assets led review of the Council's estate, all stakeholders are enabled to bring assets forward to the Council for review.

3.1.3 The Council recognises the invaluable input which local communities and wider stakeholders can provide when it comes to identifying assets which, potentially, could be brought forward for disposal and re-use.



- 3.1.4 There is an established land enquiry process enabling stakeholders to bring forward any Council owned asset for review in advance of the City Assets led cyclical review. This process ensures that the asset's status can be quickly determined and considered for disposal if deemed surplus. If you wish to submit a land enquiry, the details of how to do so are here:

<https://www.wolverhampton.gov.uk/business/business-property/property-and-land-ownership>

- 3.1.5 Where assets are identified by stakeholders and considered surplus through following the process detailed in 4.0, City Assets will then proceed to offer the asset to for sale in accordance with the process detailed in 5.0.

## **3.2 Transparency**

### **3.2.1 Approaches to the Council from Council employees (including Councillors) and Members of Parliament**

- 3.2.2 City Assets can be approached via internal channels including via employees of the Council (in person, by phone or electronically) and Members of Parliament. Enquiries can be for a range of reasons such as the possibility of acquiring surplus assets generally or a specific asset for themselves or on behalf of a party to whom they are linked.

- 3.2.3 Such approaches are welcomed, as employees and Members of Parliament are valued stakeholders. Notwithstanding this, there could be negative public perception that access to information in advance of assets being marketed could confer an advantage to an employee, Member of Parliament or their linked party.

- 3.2.4 To tackle this, City Assets will not provide any additional information to parties approaching the Council via these or any channels and will be advised that if the particular asset is declared surplus to requirements and offered for sale, details will be published upon the Council's website.

- 3.2.5 In the event that an employee, Member of Parliament or any other party connected to the Council approaches City Assets with a view to obtaining information on an asset in advance of it being released to market, this will be reported to the Council's Chief Operating Officer and formally declared through Asset Management Board.

- 3.2.6 Where conflicts of interest exist, such as an enquiring party is related to an employee or Member of Parliament, that particular officer will be required to declare the conflict of interest to the Head of Assets and will be excluded from discussions on that particular asset and conduct of that disposal will be re-allocated to a non-conflicted member of the team.

### **3.2.7 Annual reporting**

3.2.8 City Assets is required to report, on an annual basis, to the Council's Chief Operating Officer detailing all disposals completed within each financial year.

3.2.9 Within this report, City Assets is required to demonstrate how each disposal has complied with the statutory duty to obtain best consideration.

3.2.10 For those sales where best consideration has not been obtained, City Assets will provide full details as to why along with the approval(s) received to complete that particular disposal.

3.2.11 This tier of scrutiny ensures that the Council's disposal activity is periodically monitored to ensure compliance to the satisfaction of the Council's Chief Operating Officer.

### **3.2.12 Local Government Transparency Code 2015**

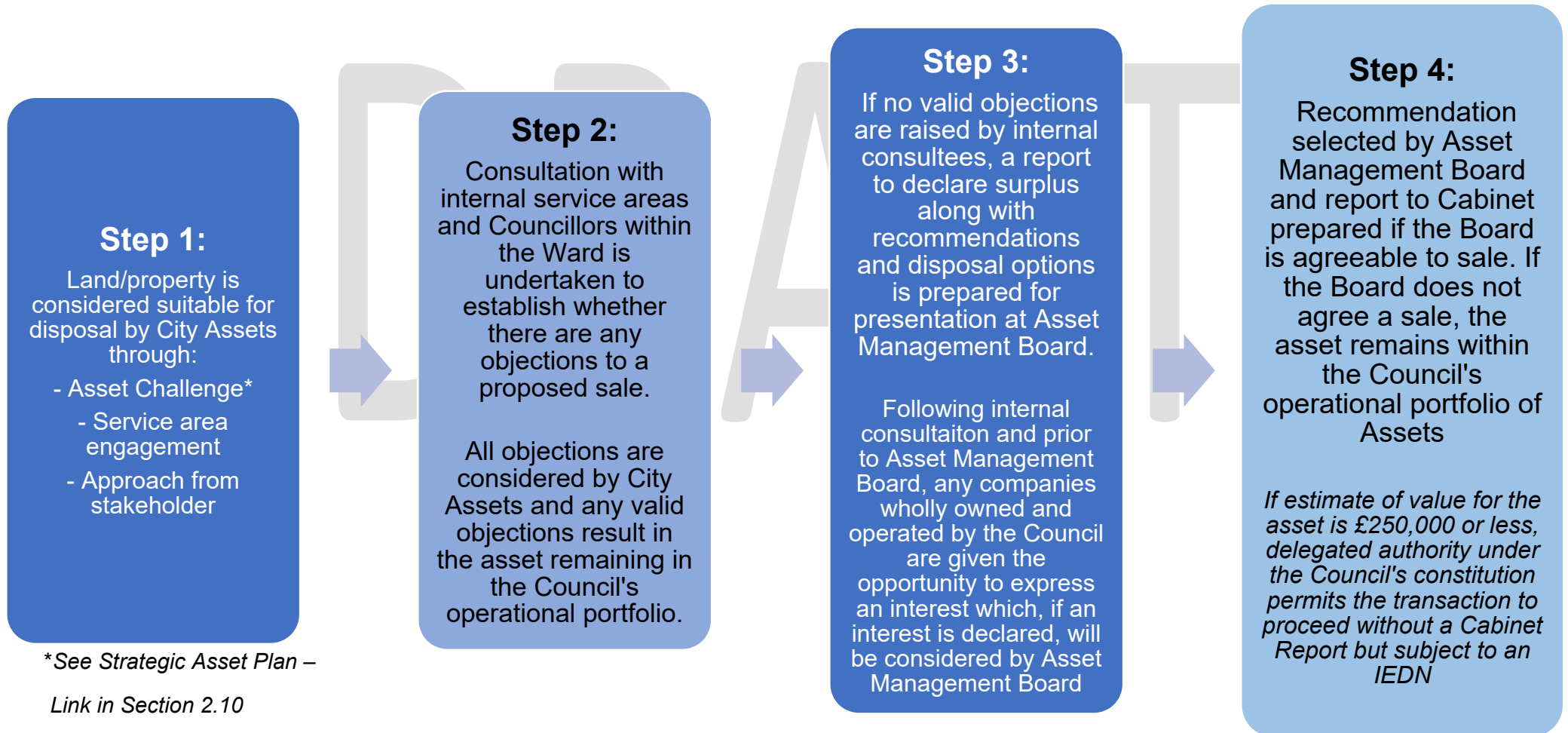
3.2.13 The Council will publish details of all land and property which it has declared surplus to requirements as required by the above Code. Details will be published at the link below:

<https://wolverhamptonintranet.moderngov.co.uk/mgDelegatedDecisions>

## 4.0 Consultation & approval process

4.1 This section of the policy will detail the process of identifying an asset which is potentially surplus to requirements.

4.2 Each step, represented graphically below, is detailed further overleaf:



**Step 1:** The Council adopts an effective pro-active and reactive response to identifying assets which may be surplus to Council requirements.

The pro-active approach, in line with the Council's Strategic Asset Plan, involves a continual review of evolving service delivery needs and how land and/or property plays a part. Engagement with both Heads of Service and staff operating from potentially surplus assets allows opportunities for disposal to be explored.

The reactive approach is maintaining an "open door" approach for anyone to highlight an asset which they consider may be surplus to the Council's requirements subject to further investigation. The Council recognises the valuable resource which stakeholders can offer through their local knowledge.

The Council publishes its Asset Register, which lists all of the Council's land and property, regularly via its website for all stakeholders to review:

<https://www.wolverhampton.gov.uk/business/business-property/property-and-land-ownership>

**Step 2:** Internal consultation is essential to ensure a holistic view of any land or property asset is obtained. Each service area offers a valuable input which informs decision making. The list of internal stakeholders consulted in addition to City Assets is listed below:

- City Planning
- Open Space Strategy and Action Plan Team
- Environmental Services (Landscape and Ecology)
- Environmental Protection (Public Protection Service, Air Quality Team and Contaminated Land Team)
- Legal Services
- Transportation
- Housing
- Regeneration
- Community Safety
- Education
- Ward Councillors

The list above is not intended to be exhaustive but represents the minimum internal engagement for each asset which is identified as potentially being surplus to requirements.

Step 2 is the point in the process where the option of an asset being surplus is tested, as at the start of consultation a disposal is only a possibility and is subject to the specialist knowledge each consultee provides.

The benefit of consultation is that key service areas and Ward Councillors provide a holistic view of the asset and its future before progressing to Step 3.

In the event that, through consultation, an asset is not deemed surplus to requirements through a valid objection then the process ceases here and the particular asset is retained.

Examples of reasons to retain an asset could be:

- It forms part of a wider regeneration scheme
- It is planned to be used for a future highway scheme
- It represents valuable recreation space used by the local community
- It can be re-purposed for housing/community/operational needs

**Step 3:** Following internal consultation, if there are no valid objections raised to the proposed disposal, a report is taken to the Council's Asset Management Board. Between internal consultation completing and a report being taken to Asset Management Board, any companies or subsidiaries wholly owned by the Council (e.g. WV Living) will be given an opportunity to express an interest in acquiring the site. If an interest is expressed, this will be detailed as part of the options available for disposal in the report.

Asset Management Board is held at least quarterly, providing a forum with officers and Members to review potential disposal options for assets considered surplus to requirements. The core attendance at Asset Management Board is:

- Deputy Leader
- Cabinet Member for City Assets and Housing (Chair)
- Chief Operating Officer
- Deputy Chief Executive
- Deputy Director – Assets
- Head of Assets
- Estates Manager

The report to Asset Management Board contains an estimate of value, undertaken by a qualified internal RICS Registered Valuer, along with a series of options for disposal and a recommendation. The options are discussed and the Chair provides instruction either based on the recommendation or the outcome of Board discussion.

If the estimated value of the land/property is £250,000 or less, City Assets will prepare an IEDN report seeking to declare the asset surplus to requirements and seek authority to proceed to market. If an offer is received of £250,000 or less, formal approval will then be sought through an additional IEDN report which will detail the offer and seek approval to proceed with a sale in accordance with the Council's Constitution.

If the estimated value of the land/property exceeds £250,000 or following marketing an offer is received exceeding £250,000, the process moves on to Step 4.

**Step 4:** A report to Cabinet is prepared, outlining the options discussed at Asset Management Board and the recommended route to disposal. The report is considered and should Cabinet agree the recommendation outlined, approval to proceed will be granted. All Cabinet approvals to dispose of land/property with an estimated value of more than £250,000 are subject to a supplementary IEDN report being presented which provides the detail of the outcome of marketing along with the recommended offer for acceptance.

Naturally, some land/property interests will be close to the threshold of £250,000. In most circumstances, a pragmatic approach of taking a report to Cabinet will be taken to make efficient use of time and account for the chance of the sale price exceeding the Cabinet Report threshold.

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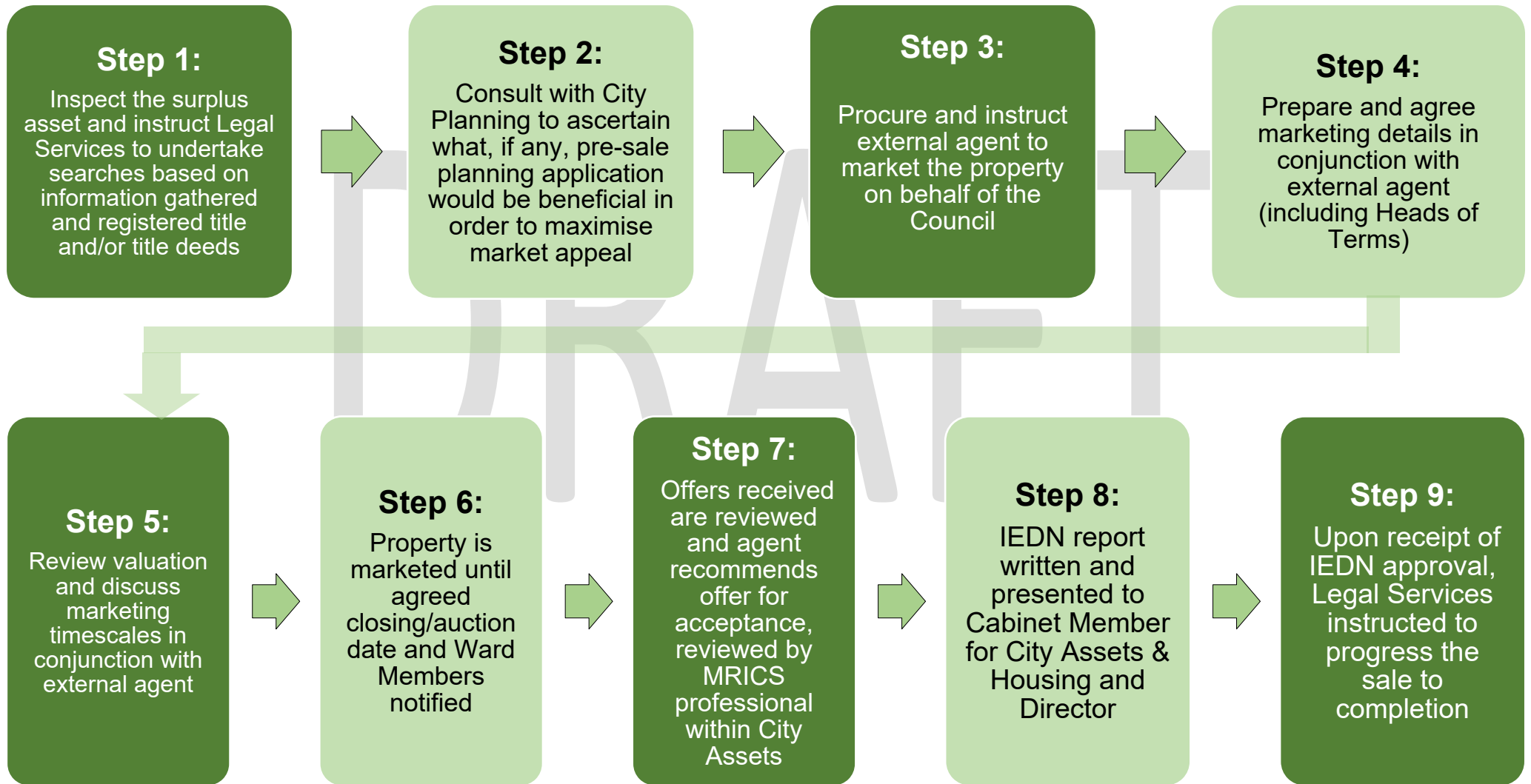
## 5.0 The disposal process

- 5.1 This section details how surplus assets are prepared for sale following receipt of authority to dispose.
- 5.2 The main interests in land and property which can be disposed of are:
- Freehold
  - Leasehold
- 5.3 This policy is concerned with the disposal of freehold interests in land and property only.
- 5.4 In the majority of circumstances, the recommendation and preferred route for disposal of surplus assets will be via the open market.
- 5.5 Offering surplus assets to the open market ensures that the opportunity to acquire is available to the widest market possible, ensuring that the Council achieves best consideration and receives a range of options for the refurbishment/re-development of the asset offered for sale.
- 5.6 There are some circumstances, however, where a sale via the open market may not yield the best consideration for the asset. This could include circumstances where there is a special purchaser.
- 5.7 In the event of a direct allocation of an asset to a special purchaser, it must be demonstrably more beneficial than a market sale and this detail will be included in both the report to Asset Management Board and subsequent approval authority (IEDN or Cabinet Report)
- 5.8 The Council will always instruct an external independent surveyor to provide a valuation for an asset which has potential to be marketed in isolation to ensure transparency and objectivity, with the proposed sale price and terms reported to the appropriate approval authority (IEDN or Cabinet Report).
- 5.9 The only exception to the rule of instructing an external independent valuation is where the Council is disposing of a relatively small area of land adjoining a residential or commercial site which can only realistically be utilised by the adjoining owner. These disposals will be managed by the Council's in-house qualified surveyors, overseen by the Estates Manager.

5.10 The process of offering an asset to the open market is represented graphically overleaf, with further explanatory notes on the following pages:

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**Step 1:** This step involves the collection of information relating to the asset, so that it can be successfully sold with any outstanding actions completed such as confirming and repairing boundaries, registration of title, obtaining indemnity insurance for restrictions where the beneficiary cannot be identified and installation of services.

The purpose of preparing the surplus asset to be free of as many encumbrances as possible is to maximise market appeal and, in turn, achieve higher value in return. Considerations at this stage include, but are not limited to:

- Boundary inspection
- Review of services available to the site (gas, electricity, water, communications)
- Access arrangements including details of any shared access
- Review of asset's planning status (Green Belt, listed etc.)
- Restriction/overage provisions present or required
- A review of the asset's value subject to further advice from the external agent
- Consideration of most appropriate route to market (auction or informal tender)
- Title searches (including utilities, coal mining and land charges)
- asset's VAT status
- Collection of any compliance documentation available for buildings on site (fire safety, asbestos, electrical safety, gas safety etc.)
- Procurement of an Energy Performance Certificate
- Provision of any additional information held by the Council which could benefit future owners such as ground investigation information or ecology reports as examples

**Step 2:** Consultation with Wolverhampton's City Planning Team is essential, as planning officers can provide pre-application guidance on suitable uses for the subject asset. This advice can lead to the Council obtaining outline planning permission or even full planning permission prior to marketing. This approach has the benefit of de-risking the purchase of the asset with a view to enhancing its value.

**Step 3:** At this step in the process, the Council procures and engages with an external agent to market the surplus asset on its behalf. An external agent is appointed given the superior market access it holds and reaching the widest market as possible is critical to ensuring that best consideration is obtained and the broadest inward investment chances are secured.

The two main routes to market are informal tender and auction. An overview of all routes to market is provided in section **6.0**.

Assets offered for sale via auction are currently via the Council's appointed auctioneer Bonde Wolfe. The cost to the Council to send a property to auction is nil, as costs are recovered directly from the buyer. Auction is selected as a method of sale mainly for surplus residential properties, such as former caretaker's houses, where one of the only options is to refurbish for residential purposes.

Land/property offered to market via informal tender will be via an external property agent. The Council seeks at least four quotes to undertake disposal work in accordance with the Council's Procurement Policy.

The Estates Manager recommends the most appropriate disposal method based on the asset's characteristics, potential market and any conditions of authority.

**Step 4:** Marketing details for a disposal can include, but is not limited to:

- Draft transfer documents
- Title searches
- Supporting information such as reports
- Marketing brochure
- Heads of Terms
- Planning Statement

These documents will provide prospective purchasers with the information they need to decide on whether to make an offer for the asset and if they do make an offer, the terms upon which a sale would be completed.

Details of any terms such as restrictions on use, overage provisions and timescales for development post completion will be detailed in both the Heads of Terms and draft transfer documents.

**Step 5:** Given the transient nature of the property market, the initial estimate of value provided in the approval stages of the process may need to be reviewed. This estimate is reviewed because when marketing land/property, usually, it is beneficial to provide a guide price. The Council has the benefit of qualified RICS Registered Valuers, who can review and discuss a suitable guide price in conjunction with the external agent.

There are some instances where offering a guide price is not beneficial, given the wide range of uses suitable for a particular asset, the price will be market led.

**Step 6:** If the property is offered to auction, it will usually be marketed for at least four weeks prior to the auction date via both Bonde Wolfe's and the Council's website:

Bonde Wolfe auctions: <https://www.bondwolfe.com/property-auctions-west-midlands/>

Council's website:

<https://www.wolverhampton.gov.uk/business/business-property/property-sale-and-let>

If the asset is offered for sale via informal tender, the marketing period will be a minimum of eight weeks and will be advertised for sale via the appointed agent's website and the Council's website.

Marketing information is released and provides all necessary detail on the property including guide price (if appropriate), images, plan, EPC rating and measurements where available. Ward Members are also notified that marketing has commenced.

**Step 7:** With an auction, a reserve price is set by the Council in consultation with the auctioneer. Provided the reserve price is met, the winning bidder will proceed to acquire the asset within 28 days from fall of the hammer subject to IEDN approval.

If the asset is offered for sale by way of informal tender, once the closing date has passed, the appointed agent prepares a summary of the offers received. City Assets and the appointed agent then meet to review all offers and supporting information in detail. A consensus is reached and a preferred offer identified.

It is to be noted that the Council is not obliged to accept the highest or any offer received. Offers are assessed on the basis of the information received and which proposal offers the best holistic outcome for the subject asset and local community – not simply the highest price offered.

It must also be clearly stated under this policy that where the Council operates a formal tender, informal tender or any other marketing exercise where a closing date is set the Council is not obliged to consider any offer submitted late. It is the interested party's responsibility to ensure an offer is submitted on time and in accordance with the instructions of the exercise which will be made known to all as part of the marketing details.

**Step 8:** An IEDN report is prepared summarising all offers received, the considerations for each offer and a recommendation. This report is presented to the Cabinet Member for City Assets and Housing and the Director for City Assets and Housing. The outcome of this report is either authority to proceed with the recommendation is granted or additional information is requested prior to a decision being made.

In the event additional information is requested, the Council's agent will collate and a revised IEDN report will be submitted for consideration.

**Step 9:** Once IEDN approval is granted, City Assets will prepare and issue an instruction to Legal Services to progress the sale to completion.

## **6.0 Disposal Methods**

### **6.1 Main methods**

6.1.1 There are four main methods of disposal, each has its own advantages and disadvantages. The Estates Manager will determine which method is recommended for each particular disposal based on its individual merits and external advice where required.

6.1.2 The four main methods of disposal are:

- Formal tender (open market)
- Informal tender (open market)
- Auction (open market)
- Private treaty (no market testing)

6.1.3 The Council's preferred and default method is open market.

6.1.4 In order for an open market disposal to be effective, the opportunity must be advertised as widely as possible (electronically and physically) for a suitable period of time. Wide and extensive marketing captures as much interest as possible to ensure best consideration is obtained.

6.1.5 Assets must be released to the open market strategically, in the context of the property market at the time, to ensure that best consideration is achieved. City Assets continually reviews developments in the property market to ensure surplus assets are offered for sale in appropriate circumstances.

### **6.2 Formal tender**

6.2.1 An asset is offered for sale via the open market and bids are submitted by a pre-set closing date in confidence and not opened until after the closing date.

6.2.2 Once the closing date has passed and offers submitted, there is no option to negotiate and once the Council accepts a formal tender it becomes a binding contract.

6.2.3 This approach requires detailed preparation as the asset is marketed with a finalised contract, which becomes binding upon offer acceptance, removing any flexibility to negotiate.

### **6.3 Informal tender**

6.3.1 Similar to formal tender but offers are subject to contract and do not constitute a binding contract upon acceptance. This method enables flexibility post-closing date if required and enables the ability for the

Council to seek best and final offers where bids are considered too close to decide a clear preferred purchaser.

6.3.2 In the event that changes are made post-closing date which do not constitute minor, non-material amendments, either all interested parties will be invited to submit revised offers and/or the property will be re-marketed.

6.3.3 The Council can invite unconditional and/or conditional offers, under the informal tender process. The main differences being:

- *Unconditional offers invited*

The price which the party is willing to pay for the land/property as it stands without any further investigation.

- *Conditional offers invited*

The price which the party is willing to pay subject to conditions. Such conditions may include obtaining full planning permission or undertaking intrusive ground investigations prior to completing the purchase.

## **6.4 Auction**

6.4.1 This approach is the swiftest way to realise a disposal. Surplus assets are advertised through an open, public auction. Upon fall of the hammer, the highest bidder creates a binding contract to purchase the asset and this is usually completed within 28 days of the auction. This method offers a transparent and competitive environment but does depend upon interested bidders being present (physically or online) in order to achieve at least the reserve price of the asset.

## **6.5 Private treaty**

6.5.1 Private treaty is where a sale is negotiated directly with a third party. It can be with or without marketing and is usually only suitable where a special purchaser is identified. This method should not be used unless there is either a special purchaser or there is a wider economic, social or environmental benefit to do so, as all surplus assets should be offered for sale via the open market to ensure transparency and obtain best consideration.

## 6.6 Advantages and disadvantages of each method

### Formal Tender

#### Pros

- Contracts exchanged on offer acceptance
- Market exposure from agent

#### Cons

- No flexibility
- Cost of appointing an agent
- Time to prepare and hold asset

### Informal Tender

#### Pros

- Greater post sale control
- Structured disposal process
- Market exposure from agent

#### Cons

- Time to prepare and hold asset
- Cost of appointing Agent

### Auction

#### Pros

- Speed of sale
- Market exposure from agent
- Competitive
- No cost to the Council

#### Cons

- Buyer proposals are unknown

### Private Treaty

#### Pros

- Maximise receipt where special purchaser exists
- Independent valuation for transparency

#### Cons

- No market exposure

## 6.7 Land swap

6.7.1 In addition to the four main methods of disposal, the Council may also consider that a “land swap” is appropriate whereby acquiring a third-party asset in exchange for a Council owned asset secures a benefit to the Council, for example as part of a regeneration scheme.

6.7.2 In these circumstances, it must be determined through an independent valuation that the interests being swapped are of equal value with any shortfall being compensated through monetary payment or other compensatory measure to be agreed by the appropriate authority (IEDN or Cabinet Report).

## 6.8 Community Asset Transfer

6.8.1 Finally, the Council may dispose of assets in accordance with its Community Asset Transfer Strategy, details of which can be found via the link below:

<https://www.wolverhampton.gov.uk/business/business-property/community-asset-transfer>

## **6.9 Examples of disposals**

### **6.9.1 Sale of areas of land adjoining residential property**

6.9.2 The Council holds small areas of land which adjoin residential properties throughout the City.

6.9.3 Through the Council's land enquiry process (see 3.1.4), residents can enquire as to whether or not Council owned land adjoining their property is surplus to requirements and available for them to purchase.

6.9.4 There may be a range of reasons as to why the Council wishes to retain land within this portfolio, for example it provides a valuable amenity space to the local area, but there is also land which is considered surplus to Council requirements and a better use of the land would be for the adjoining resident to take ownership of the land and improve its use by combining it with the existing property.

6.9.5 In cases where land is considered surplus to Council requirements, City Assets will engage with the property owner with a view to offering terms. The land's full potential will always be considered, regardless of the current owner/occupiers proposed use, as the land transfer will be with the property indefinitely so its future potential must be considered.

6.9.6 Should the land have development potential in isolation, for example it is capable of accommodating a self-build housing plot, unless there is a higher value to be achieved through merging the land with the resident's interest the land will be offered to the open market.

6.9.7 There may be instances where the land offers significant potential to the adjoining property, for example a sizeable extension, but the current owner/occupier only wishes to use it for additional garden space. Where this occurs, the Council may consider selling the land subject to a restriction, but the preference is always to sell the land at its unrestricted value.

6.9.8 Where sales subject to restrictions are made, the Council will include an overage provision which entitles it to 50% of any uplift in value created by a more valuable use being implemented. 50% is selected as a share because it is recognised that the value can only be realised if both parties contribute the land and the means to deliver the uplift in value i.e. undertaking and paying for an extension.

6.9.9 All residents are advised to seek their own professional valuation advice when conducting negotiations with the Council to ensure their interests are protected.



#### **6.9.10 Sale of areas of land adjoining commercial property**

6.9.11 The Council also owns land which adjoins commercial property. Similar to the position on residential land, if there is surplus land adjoining commercial property and there is a desire to acquire from the adjoining business, the Council will engage with the property owner with a view to offering terms.

6.9.12 It must be re-iterated that if the land in question holds potential in isolation, unless there is higher value to be achieved from merging the interests, the land would be offered for sale via the open market with the adjoining business invited to offer.

#### **6.9.13 Income generating assets**

6.9.14 The Council holds a vast stock of revenue generating assets including offices, retail shops, ground leases and industrial units. This group of assets is referred to as the commercial portfolio and is retained to provide a valuable revenue income stream to the Council.

6.9.15 In addition to the revenue they produce, these assets are held to allow the Council to play a vital role in providing small and medium enterprises with premises to operate from. As such, the commercial estate is vital to enterprise economy within the City.

6.9.16 In the event that sale of one or a group of the commercial estate assets is proposed, the process in Section 4 would be followed, subject to the following prior actions:

- Detailed consultation with the Chief Executive, Director of Finance, Chief Operating Officer, Head of Legal Services and Leader of the Council
- Professional advice being obtained to assess the outcomes of revenue reduction v capital receipt
- Consultation with tenants occupying the asset(s) subject of the proposed sale
- Any external advice as necessary

6.9.17 Following the outcome of consultation and approval, if granted, a disposal would be progressed in accordance with the recommendations of the report which may differ from that process detailed in Section 5. This is due to the unique nature of the proposal which potentially involves operating entities.

## **6.10 Interim uses**

6.10.1 There may be occasions where a vacant, surplus property due to be disposed of remains empty whilst approvals are sought and marketing is taking place. In these circumstances, a short-term interim use can be appropriate. Such use may be a temporary tenancy for an individual or group to utilise the property, ensuring that it does not attract anti-social behaviour and the asset remains in use until disposal.

6.10.2 Such arrangements would be considered on a case-by-case basis and would be granted by way of licence, excluding any statutory rights under the Landlord and Tenant Act 1954, which would be terminable upon short notice once a disposal is nearing completion.

## **6.11 Land held by the Council as Trustee – Charities Act 2011**

6.11.1 Through the course of disposing of assets, there may be land which is held by the Council as Trustee. In order to consider disposal of land held under a Trust Deed, the Council must comply with the requirements as set out in the Charities Act 2011 which would include engagement with the Charity Commission and any other professional advice to ensure that any disposal and subsequent use is in the best interests of the beneficiaries of the Trust Deed.

## **6.12 Allotments (current or former) – Allotments Acts 1908 to 1950**

6.12.1 In the event that an allotment site is considered surplus to requirements, there would be extensive user, resident and Councillor consultation. The Council would also be required by statute to obtain the consent of the Secretary of State if the proposed use was no longer allotments.

## 7.0 Appointment of external professional support

- 7.1 In order to ensure that an open market disposal receives wide exposure, external support from property agents is sought. The Council does not benefit from marketing presence on a regional, national or even international basis in the same way that a regional, national or international agent does.
- 7.2 Property agents have the benefit of a wider exposure to the market and often retain a database of potentially interested parties whom they can introduce to an asset in addition to general marketing. Local, national and international agents all bring individual benefits to marketing an asset and these merits will be considered in the context of the asset being offered for sale, with City Assets ensuring the agent appointed is most appropriate in terms of market presence and knowledge for the asset being sold – not simply the cheapest quote presented.
- 7.3 The Council will always seek four quotes from property agents and City Assets will decide on which company to appoint based on the merits of each submission.
- 7.4 The Council will always endeavour to ensure that its internal legal and surveyor's costs are recovered as part of a disposal. In addition, part of the cost to appoint an external agent will be recovered from the purchaser to ensure that the cost of the external agent is mitigated, but it is recognised that the Council bearing a cost for employment of the agent's services delivers wider rewards in terms of access to the market.
- 7.5 Where a private treaty transaction is authorised due to clearly demonstrable benefits beyond a sale on the open market in isolation, the Council will appoint the valuation expertise of the District Valuer.
- 7.6 The District Valuer is an external valuer, operating as a specialist property arm of the Valuation Office Agency. It provides independent, impartial valuation and professional property advice across the entire public sector.
- 7.7 The expertise available from the District Valuer ensures that valuation advice provided is accurate and reliable, ensuring that private treaty transactions are at a value which the Council can be confident achieves

best consideration in accordance with the General Disposal Consent (see 10.4).

- 7.8 The Council's Procurement Rules and all associated national and international law must be complied with when procuring external support, with advice being taken from the Council's Head of Procurement where there is uncertainty.

## 8.0 Valuation

### 8.1 The Royal Institution of Chartered Surveyors (RICS)

8.1.1 Valuation is a critical process in the disposal of land and property as it informs decision making, constitutional approval routes and is a marker of what price represents best consideration.

8.1.2 The City Assets Team has three posts which are required to be Members of the RICS (MRICS) and RICS Registered Valuers:

- Estates Manager
- Senior Valuation Officer
- Valuation Officer

8.1.3 The RICS is a globally recognised professional body which enforces the highest professional qualification in the development and management of land and property.

8.1.4 Valuer Registration is a risk monitoring and quality assurance programme which checks compliance with RICS Valuation – Global Standards, known as the Red Book. This ensures that RICS Registered Valuers always meet the highest valuation standards, providing confidence and protection to the public and the Council that valuations are of the highest quality and carried out to globally recognised standards.

8.1.5 All valuations of land and property undertaken by City Assets are in accordance with the Red Book. Not every valuation must be Red Book compliant, as there are exemptions depending on the purpose of the valuation, but its principles are embedded in all valuation activity within City Assets.

8.1.6 A copy of the Red Book is available publicly from the RICS website:

<https://www.rics.org/uk/upholding-professional-standards/sector-standards/valuation/red-book/red-book-global/>

### 8.2 Bases of value

8.2.1 There are two main bases of value from the Red Book which the Council adopts when disposing of land and property:

- Market value
- Investment value (worth)

8.2.2 Market value is defined in the Red Book as:

*“the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm’s length transaction, after proper marketing, and where the parties had each acted knowledgeably, prudently and without compulsion”*

8.2.3 Market value is the main basis of valuation when estimating the value of an asset which will be subjected to market testing. The initial valuation determines whether an IEDN or Cabinet approval is required to declare the asset surplus and proceed to market.

8.2.4 Investment value or “worth” is defined in the Red Book as:

*“the value of an asset to the owner or a prospective owner for individual investment or operational objectives”*

8.2.5 This is the basis of value which is adopted when an independent valuation is sought as investment value estimates the value of an asset to a special purchaser. Investment value is always considered alongside market value to ensure that any proposed private treaty sale is justified.

8.2.6 A sale via private treaty, resulting from say a private owner of land adjoining a surplus Council owned parcel land, will realise the synergistic value (also referred to as “marriage value”).

8.2.7 Marriage value is defined in the Red Book as:

*“An additional element of value created by the combination of two or more assets or interest where the combined value is more than the sum of the separate values”*

### **8.3 The Council’s approach to valuation**

8.3.1 The Council has the option to obtain an opinion of value from its internally qualified RICS Registered Valuers to inform decision making.

8.3.2 For open market disposals, in conjunction with the external party which markets the property, the Council’s internally qualified RICS Registered valuers will engage with the external valuer to reach a consensus on guide/reserve price.

- 8.3.3 For private treaty transactions, the Council's internally qualified valuers may be required to provide an opinion of value for decision making purposes but this will not be communicated to the District Valuer.
- 8.3.4 The Council's internally qualified valuers will engage with the District Valuer upon completion of the valuation, ensuring robust challenge is offered if required along with supporting evidence to justify such challenge to ensure that the opinion of value is reflective of best consideration.

## 9.0 Post-completion

- 9.1 The Council will apply post completion timescales for re-development/refurbishment in every sale where the asset being sold is not suitable for continued use in its current condition.
- 9.2 This ensures that the asset is not purchased and then unused, as this will have detrimental effects on the local community.
- 9.3 The rationale for disposing of surplus land and property is not only to comply with sound asset management practices, government policy and to generate a capital receipt and revenue savings but also to bring land/property back into beneficial use.
- 9.4 City Assets will keep in contact with purchasers to monitor implementation of timescales set, with a view to working with the purchaser to ensure the land/property is brought back into use at the earliest opportunity.
- 9.5 In some circumstances, the Council may withhold transfer of the freehold interest until completion of the re-development/refurbishment works. This approach ensures that more challenging projects are delivered before the Council relinquishes control (conditional transfer).
- 9.6 The Council can also include post-sale conditions on the sale, such as restrictive covenants or overage provisions. These tools will only be utilised where their application is beneficial to retained Council owned land or there is a chance that the value of the asset may increase at a future date subject to the completion of the proposed development.
- 9.7 Such controls are implemented to protect the Council both in terms of ensuring its adjoining retained estate is not detrimentally impacted by the sale and that the Council receives the best consideration for the sale of the asset.

## **10.0 Governance**

### **10.1 Main documents**

10.1.1 The Council's land and property disposals are principally governed by:

- The Local Government Act 1972 (Section 123 and Section 123 (2a))
- Circular 06/03: Local Government Act 1972 general disposal consent (England) 2003
- The Council's constitution
- This policy

### **10.2 The Local Government Act 1972 – Section 123**

10.2.1 Section 123 of The Local Government Act 1972 gives the Council authority to dispose of land held by it in any manner it wishes. This is subject to all disposals obtaining the best consideration reasonably obtainable.

10.2.2 As this policy focusses on freehold disposals, all disposals must obtain the best consideration reasonably obtainable.

10.2.3 In order to obtain the best consideration reasonably obtainable, market testing ensures that the best possible consideration is achieved. This is through ensuring that all market participants are given an opportunity to acquire the asset for a price they are willing to pay.

10.2.4 The full extract from the Local Government Act 1972 can be viewed via the link below:

<https://www.legislation.gov.uk/ukpga/1972/70/section/123>

### **10.3 The Local Government Act 1972 – Section 123 (2a)**

10.3.1 This section of the Act states that a Council cannot dispose of any land consisting or forming part of open space unless prior to disposal the Council advertises its intention to sell the land.

10.3.2 The advertisement must appear for two consecutive weeks in a newspaper circulating the area in which the land is situated and consider and objections to the disposal which may be made.

10.3.3 The selected newspaper for publishing of notices under S123 (2a) is:

**The Express and Star**

10.3.4 This newspaper is widely circulated in Wolverhampton and is the rationale for its selection. It is important to note that the Council has a legal duty to consider objections raised and is not prevented from proceeding with a disposal of land forming open space if the benefits of a sale outweigh the basis of objection(s). Where objections are raised, they will be presented to the Cabinet Member for City Assets and Housing and the Director for City Assets and Housing via an IEDN for consideration.

10.3.5 The definition of open space can be wide, so City Assets will take a pragmatic view on whether land either is or forms part of public open space. The main criterion will be if it is open, is capable of being crossed without hindrance and is maintained by the Council's Grounds Maintenance Team. Advice will also be taken from the Council's Open Space and Strategy Action Plan Team.

10.3.6 Areas classified as open space or general amenity space will be considered in the context of value to the local community including visual and not just practical usage.

**10.4 Circular 06/03: Local Government Act 1972 general disposal consent (England) 2003**

10.4.1 There are occasions where best consideration may not simply mean the highest price.

10.4.2 This consent means that the Council may dispose of assets at less than best consideration provided it is satisfied that such a disposal secures a wider social, environmental or economic benefit.

10.4.3 This consent is subject to obtaining Secretary of State consent where the undervalue exceeds £2,000,000 (Two Million Pounds).

10.4.4 When deciding to dispose of an asset at less than best consideration, the Council is required to comply with the requirements set out in this Consent which includes adhering to prudent and commercial practices, such as obtaining the advice of a professionally qualified valuer.

10.4.5 Any proposal to dispose of a site at less than best consideration must be reported, either via IEDN or Cabinet Report, stating clearly the level of undervalue.



10.4.6 The full consent document can be viewed via this link:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/7690/462483.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7690/462483.pdf)

## **10.5 The Council's constitution**

10.5.1 The Council's constitution sets out how the Council operates, how it makes decisions and the procedures which are followed to ensure these decisions are efficient, transparent and accountable to stakeholders including the public.

10.5.2 Currently, Part 4 of the constitution (Contract Procedure Rules) deals with Land and Property Transactions. The general procedure for Land and Property transactions is detailed and outlines the Scheme of Delegation for property transactions.

10.5.3 For disposals, the constitution requires:

- Minor disposals by freehold sale or long lease at a premium up to a value of £250,000 to be reported via IEDN
- Disposals with a value of £250,001 and higher must be reported to Cabinet

10.5.4 The constitution is updated at least annually and can be viewed in full via the link below:

<https://wolverhampton.moderngov.co.uk/ieListMeetings.aspx?CId=792&Year=0&info=1&bcr=1>

## **10.6 The Council's Disposal Policy**

10.6.1 This policy is written to augment the statutory and constitutional parameters when dealing with land and property disposals.

10.6.2 It is provided to clearly showcase how the Council manages disposal of land and property to consistently secure the best possible outcome for the City.

10.6.3 This policy will be regularly reviewed with input and challenge from all stakeholders continually welcomed.

## **10.7 Bribery Act 2010 and Proceeds of Crime Act 2002**

10.7.1 Disposal of land and property can involve significant sums of money and this has the potential to introduce bribery towards officers involved in the process, usually to secure an outcome favourable to the party offering the bribe.

10.7.2 Disposals will be dealt with in accordance with the Council's prevailing policy on bribery, with this policy specifically requiring any bribes either offered directly or knowledge of a bribe being offered needing to be

reported to the Head of Assets and Chief Operating Officer within 24 hours.

## **10.8 Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017**

10.8.1 The Council undertakes to ensure that appropriate anti-money laundering checks are undertaken on purchasers of its surplus land and property in accordance with its Anti-Money Laundering Policy which can be accessed via the following link:

<https://www.wolverhampton.gov.uk/your-council/fraud-and-corruption/types-fraud>

10.8.2 When the services of an external property agent are appointed, the transaction will also be subject to the agent's checks in accordance with its policies and procedures.

10.8.2 In addition to the statutory and Council policy on money laundering, the Council's RICS professionals are bound by the requirements of the RICS Professional Statement – Countering bribery, corruption, money laundering and terrorist financing 2019. A copy can be obtained via the link below:

<https://www.rics.org/uk/upholding-professional-standards/standards-of-conduct/aml-bribery-corruption-terrorist-financing/>

## **10.9 Misrepresentation Act 1967**

10.9.1 This statute relates to the misrepresentation or a false statement of fact made by a party during pre-contractual enquiries, which has the effect of inducing a party to purchase.

10.9.2 Whilst compliance will principally be the duty of the appointed agent, the Council must ensure that all information it provides is accurate and not misleading. The Council will ensure all reasonable steps are taken to review the quality and accuracy of information before it is provided to the agent for inclusion in marketing information.

## 11.0 Sustainability

- 11.1 On 17 July 2019, the Council declared a climate emergency.
- 11.2 A climate emergency can be defined as a situation in which urgent action is required to reduce or halt climate change to avoid potentially irreversible environmental damage resulting from it.
- 11.3 The Council has made a Climate Commitment to tackle the climate emergency both within its own activities and within the City as a whole, and a copy of this can be obtained via the link below:

<https://www.wolverhampton.gov.uk/sites/default/files/2020-01/Future%20Generations%20-%20Our%20Climate%20Commitment.pdf>

- 11.4 The UK Green Building Council states that the UK Built Environment is currently responsible and has direct control over 25% of the UK's greenhouse gas emissions.  
*Source:* <https://www.ukgbc.org/climate-change-2/>
- 11.5 The Council recognises that it has a key part to play and disposal of surplus stock is not seen as simply generating a capital receipt, bringing the building back into use and that's all that needs to be done.
- 11.6 There can be opportunities for buildings to incorporate sustainable elements such as renewable energy generation, modern methods of construction and adopting Passivhaus standards.
- 11.7 The Council, through this policy, will seek to include requirements for sustainable practices, in both development and use, within disposal conditions to ensure that its target of making the City carbon neutral by 2041 is achieved.

## 12.0 Our City: Our Plan

12.1 Our City: Our Plan sets out how the Council will work alongside local, regional and national partners to improve outcomes for local people. It sets out a clear vision for the City, Our Vision, which states:

**“The City of Wolverhampton is a place which is proud of its history, celebrates its diversity and is ambitious for the future. Our Vision for 2030 is that Wolverhampton will be a place where people come from far and wide to work, shop, study and enjoy our vibrant city. It will be transformed while still retaining all of those attributes that give our city its unique identity. A healthy, thriving and sustainable international ‘smart city’ - renowned for its booming economy and skilled workforce, rich diversity and a commitment to fairness and equality that ensures everyone has the chance to benefit from success.”**

12.2 As part of Our City: Our Plan, the Council has a programme which focusses on six priorities, achievement of which will help the Council to realise its Vision. The priorities are:

- Strong families where children grow up well and achieve their full potential
- Fulfilled lives for all with quality care for those that need it
- Healthy, inclusive communities
- Good homes in well-connected neighbourhoods
- More local people into good jobs and training
- Thriving economy in all parts of the city

12.3 Places to work, shop, study and enjoy the City will always require either land, buildings or both. It is critical to achieving the Council’s vision that land and property disposals is used as a tool to help realise the ambition of the City.

12.4 Through operation of this policy, there will be a clear contribution to Our City: Our Plan, ensuring that the Council’s operational estate is lean and agile whilst also ensuring that those assets which are surplus are sold and brought back into beneficial use to create:

- More housing
- More employment
- Inward investment
- Employment opportunities
- Community facilities

12.5 Our City: Our Plan can be viewed via the link below:

[Our Council Plan 2019-2024 \(2022 Feb update\).qxp Layout 1 \(wolverhampton.gov.uk\)](#)

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