

## **Finance Sub-Committee**

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<b>Date of Meeting:</b>	19 <sup>th</sup> January 2023
<b>Report Title:</b>	Asset Management
<b>Report of:</b>	Peter Skates - Director of Growth & Enterprise, Alex Thompson - Director of Finance & Customer Services
<b>Report Reference No:</b>	FSC/24/22-23
<b>Ward(s) Affected:</b>	All Wards

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### **1. Purpose of Report**

- 1.1.** The Finance Sub-Committee has oversight, scrutiny and budgetary review of the Council's Land and Property function. This report allows transparency in terms of the Council's land and property activity responding to the Corporate aim of Open and the Council's priorities of being an Open and enabling organisation and Plan Priority of Open and making Cheshire East a thriving and Sustainable Place.

### **2. Executive Summary**

- 2.1.** This report provides context and activities linked to the Council's assets acquisitions and disposals of land and property.
- 2.2.** Chapter 2 part 4 in the Constitution (December 20121 amended on 8 September 2022), identifies the functions of the Sub-Committee and includes responsibilities under point 2.5;

'property transactions including the buying selling and appropriation of land and property (including compulsory purchase where required)'

The Finance Sub-Committee has responsibility for approving property transactions over £2m.

- 2.3.** There are no transactions requiring approval at this point, but this report also assists the committee in understanding the relationship between property transactions and the Medium-term finances of the Council.

- 2.4. The report provides information on the property acquisitions and disposals undertaken by the Council in the first two quarters of the financial year covering the period 1<sup>st</sup> April 2022 to 30<sup>th</sup> September 2022. It also provides information on pending transactions and a potential pipeline of further activity.
- 2.5. The Council is an open and enabling organisation. The Corporate Plan states a priority to 'ensure that there is transparency in all aspects of council decision-making'.
- 2.6. Provision of this report seeks to ensure that there is transparency in this aspect of the Council's decision-making. The work covered in this report supports a sustainable financial future for the Council. In addition, the work described in this report supports a thriving and sustainable place, releasing assets so they can be brought back into economic use and enabling services to deliver their projects, supporting a transport network, helping urban and rural economies to thrive and deliver safe and clean neighbourhoods.

### **3. Recommendations**

- 3.1. That the Sub-Committee note the acquisition and disposal activity of the Council for the period 1<sup>st</sup> April 2022 to 30<sup>th</sup> September 2022, and identified within the Appendices:
  - Appendix A - Summary of Acquisitions.
  - Appendix B - Disposals completed.
  - Appendix C - Disposals Programme. (This appendix is exempt and is set out in Part 2 of the agenda.)
- 3.2. That the Sub-Committee note the pipeline of property transaction activity and the potential impact of this on the MTFS.

### **4. Reasons for Recommendations**

- 4.1. Chapter 2 part 4 of the Constitution (December 2021 amended on 6 September 2022), identifies the functions of the Sub-Committee and includes responsibilities under point 2.5:

'property transactions including the buying selling and appropriation of land and property (including compulsory purchase where required)'

- 4.2. The Finance Sub-Committee has responsibility for approving property transactions over £2m.

### **5. Other Options Considered**

- 5.1. The aim of the report is to provide information to the Sub Committee and to improve their understanding of the issues and no approval is required. As a

result, the only alternative would be not to provide a report, however this would not be aligned to the Council’s corporate plan priority of being an open and enabling organisation. Not bringing a report would hinder the Finance Sub Committee in the discharge of its duties and would not be aligned to the Council’s Constitution.

**5.2.** The Committee could choose not to note the report.

Option	Impact	Risk
<b>Do nothing</b>	The report asks the Committee to note the content of the report. It could choose not to do this.	This could hinder the committee in the discharge of its duties.

## **6. Background**

- 6.1.** The Council in delivering its aims and priorities, set out in the Council’s Corporate plan will undertake property transactions as part of its routine business. These transactions include instances where property is either bought or sold.
- 6.2.** Cheshire East Council has an extensive Capital programme where acquisition of property plays a central role in the successful delivery of these projects. A summary of acquisitions is set out in Appendix A.
- 6.3.** The Council disposes of assets on the open market, generating a capital receipt that supports the Council’s MTFS. As part of the Council’s current MTFS a sum of £1m per annum has been identified as a target for property disposals through this process for the year 2021/2 and each subsequent year of the MTFS. Based on the forecasting work that has been undertaken the Council is confident in achieving this in the current market.
- 6.4.** This report follows a report in June to the Committee that reported the out turn position for the financial year 2021.
- 6.5.** A schedule of the assets that has been disposed of in the first two quarters of 2022 is set out in Appendix B, with an out turn (as at 30<sup>th</sup> September 2022) of £246,415. The total value of assets sold was £273,500 but a deposit of £27,085 was paid in 2021/22.
- 6.6.** A schedule showing active disposals for the balance of the current year and for future years is set out in Appendix C.
- 6.7.** The Sub Committee also has a function to provide oversight, scrutiny and budgetary review of the Land and Property Function and its responsibilities also include property transactions including the buying selling and

appropriation of land and property. The Finance Sub-Committee has responsibility for approving property transactions over £2m.

- 6.8.** Although there are no specific property transactions to consider, it will aid members in understanding the relationship between these activities and the MTFS.
- 6.9.** As part of the Council's Capital Programme there are a number of physical works that require the acquisition of land. The largest number of acquisitions for this purpose has been the Council's Highway Schemes, where 5 major projects are currently being progressed by the Council's Highway Service. These projects, by their nature will require the acquisition of third-party land. The Council will endeavour to acquire land for these purposes by agreement but may also have to resort to compulsory acquisition of land, seeking powers from the relevant body within the Council to progress this. In these instances, the compensation is dealt with on a statutory basis, using established surveying approaches.
- 6.10.** The Economy and Growth Committee are considering a revised version of the Council's Asset management plan on the 19<sup>th</sup> January 2023. Although there is no statutory requirement to develop an asset management plan, it is good practice to develop and then manage and track performance against that plan as part of the Council's budget strategy in supporting capital investments decisions to deliver the MTFS priorities and is a requirement of the Council's Constitution. The asset management plan sets out principles for the corporate approach to managing property assets and the protocols, management, and governance, under which property decisions will be taken.
- 6.11.** Disposals are subject to Section 123 of the Local Government Act 1972.
- 6.12.** Since the June 2022 report to the Sub Committee the national and international outlook has evolved and a downturn is expected to have a direct impact on property transactions in the open market. In addition to this, pressure inflationary pressures are also challenging local government organisations, which in turn may have implications for assets that the Council holds as it seeks to achieve efficiencies.

## **7. Implications**

### **7.1. Legal**

- 7.1.1.** The Council has a number of powers to acquire land for various statutory functions and also to dispose of land including those general powers under the Local Government Act 1972 and the Localism Act 2011.
- 7.1.2.** Holding property assets creates a variety of liabilities, some of which are irrespective of active use. Liabilities include legislative ones – for example, the liability to pay rates on a variety of properties, both domestic or non-domestic. There are also actions that are those of a prudent property owner such as keeping the property in reasonable repair to prevent

legislative liability arising – such as under the Occupiers' Liability Act 1984 and making sure that the property does not become the source of a private or public nuisance; There are contractual ones that may arise through the use of the property such as landlord's obligations when a property is let.

7.1.3. All actions involving the disposal or acquisition of property assets must be taken in accordance with the Council's Constitution current at the time of taking the decision. The Council's Constitution (December 2021 amended on 8 September 2022) Chapter 2, Part 5, Paragraph 53 currently delegates to the Executive Director of Place authority to acquire and dispose of assets and requires that:

6.1.3.1 Under Chapter 3, Part 4, Section 4 Paragraph 4.42 The Chief Finance Officer and the Executive Director Place must be consulted on all proposed acquisitions and disposals of land and property.

6.1.3.2 Under Chapter 3, Part 4, Section 4 in the Budget and Policy Framework Procedure Rules Acquisition and disposal of land and property over £2 million is the responsibility of the Finance Sub-Committee; and below £2m is a member of the Corporate Leadership Team in consultation with the Chief Finance Officer and the Executive Director Place.

7.1.4. The Council operates a "Cascade" principle of delegation under Chapter 2 of the Constitution to ensure that decisions are taken at an appropriate level.

7.1.5. It is recognised good practice for local authorities to produce and implement an Asset Management Plan to enable the Council to manage, develop and rationalise their built and land assets.

7.1.6. The Localism Act 2011 introduced the General Power of Competence, which allows the Council to do anything an individual can do, provided it is not prohibited by other legislation. These powers have replaced the previous wellbeing powers; however, the use of these powers must be in support of a reasonable and accountable decision made in line with public law principles.

7.1.7. The Council has a fiduciary duty to the taxpayers and must fulfil this duty in a way which is accountable to local people and when land is being disposed of it should be ensured that the land is disposed of for best consideration. In instances where land is disposed of at less than best consideration the Council is providing a subsidy to the occupier of the land. In such cases the Council must ensure that the nature and amount of the subsidy complies with Subsidy Control rules.

## **7.2. Finance**

7.2.1. The 2022-26 Medium Term Financial Strategy includes an ambitious capital programme, totalling £633.7m. 62% of the programme is externally

funded from grants and developer contributions; 32% is funded through prudential borrowing, with only 6% funded from capital receipts and direct revenue contributions.

7.2.2. Capital receipts from asset disposal represent a finite funding source and it is important that a planned and structured manner of disposals is created to support the priorities of the Council. Cash receipts from the disposal of surplus assets are used to fund new capital investment or offset future debt or transitional costs.

7.2.3. The Council maintains a policy of not ring-fencing the use of capital receipts to fund new investment in specific schemes or service areas unless a suitable business case is made available, but instead subject to any claw back provisions, to allocate resources in accordance with key aims and priorities. Capital receipts can arise from certain developments and in those cases will be included as direct funding to a particular scheme.

7.2.4. Capital receipts have been an important source of finance in previous financial years. A more prudent approach has been taken in recent years and there has been no assumption of any significant additional capital receipts. A minimum amount of £1m additional capital receipts has been anticipated in 2022/23. The Council's current strategy is to realise net receipts of £4m for the period 2022/23 to 2025/26.

7.2.5. In March 2016 the government published statutory guidance on the flexible use of capital receipts which allows Local Authorities to use capital receipts to offset the revenue cost of transformational projects which are expected to deliver future ongoing revenue savings for either the Council or other public sector delivery partners.

7.2.6. Since 2018 up to £6.5m of capital receipts have been used to fund transformational projects under these guidelines. There were no plans in the Capital Strategy to use any capital receipts for this purpose in 2022/23. However, there is a proposal to put an allocation in the MTFS for 2023-2027 in the MTFS, that total figure is still to be confirmed.

### **7.3. Policy**

7.3.1. This paper provides the Finance Sub Committee information directly relating to the role of the Sub Committee, enabling it to undertake its functions as set out in the constitution.

### **7.4. Equality**

7.4.1. This is an information report that describes the Council's acquisition and disposal of property activity identifying the linkages between these activities and the MTFS. It does not consider any individual property

transactions. Equality implications are considered at the point of creation of the MTFs and at the point that a decision is made about the individual property transactions and therefore a Equality Impact Assessment is not required to support this report.

**7.5. Human Resources**

7.5.1. None.

**7.6. Risk Management**

7.6.1. Presently there is significant uncertainty in the UK property market, and this is anticipated to have an impact on the Council's property transactions. This uncertainty is due to the widely reported national and international economic conditions and are outside the control of the Council.

7.6.2. The risks associated with management of risk for property transactions are dealt with on a case by case, at a project and programme level. There is a risk that the Council is not able to achieve the target that it has set out for Capital Receipts. This is managed at these levels and risks are escalated where appropriate.

**7.7. Rural Communities**

7.7.1. None directly. The programme of acquisitions directly supports programmes of activity that the Council undertakes to achieve its aims and priorities. Achievement of Capital Receipts supports the Council's Capital Programme.

**7.8. Children and Young People/Cared for Children**

7.8.1. None directly. The programme of acquisitions directly supports programmes of activity that the Council undertakes to achieve its aims and priorities. Achievement of Capital Receipts supports the Council's Capital Programme.

**7.9. Public Health**

7.9.1. None directly. The programme of acquisitions directly supports programmes of activity that the Council undertakes to achieve its aims and priorities. Achievement of Capital Receipts supports the Council's Capital Programme.

**7.10. Climate Change**

7.10.1. None directly. Climate change implications are considered on a case by case basis for each project requiring acquisition or each disposal activity. However, by undertaking a programme of disposals will have a wide range of implications for the Council. This will allow the Council to have a smaller leaner estate, which in turn will generate opportunities for efficiencies and minimising the amount of carbon generated by the Council in its day to day activities. Releasing

unwanted assets for future economic use will also have benefits potentially reducing the generation of carbon in future construction projects by third parties.

<b>Access to Information</b>	
Contact Officer:	Andy Kehoe, Head of Estates Andy.kehoe@cheshireeast.gov.uk <work telephone number>
Appendices:	A - Summary of Acquisitions B - Disposals completed in the current Financial Year, 2022 to 2023 C – Disposals Programme (as at Sept 2022) (Note this appendix is exempt)
Background Papers:	None