

Corporate Services Overview & Scrutiny Committee

25 November 2014

Property Disposal Protocols and Peppercorn Rents

Recommendation

That the Corporate Services Overview and Scrutiny Committee comment on this report, the proposed protocols, criteria and analysis of peppercorn rents currently in place, all appended to this report.

1.0 Background

- 1.1 The purpose of this report is to present updated property disposal protocols and associated criteria for this committee's consideration, and to review peppercorn rents currently in place. There are 5 appendices.

Appendix 1 - Introduction to Property Protocols

Appendix 2 - Protocol – Disposal of Surplus Property

Appendix 3 - Protocol – Disposal of Property at an Undervalue

Appendix 4 - Criteria

Appendix 5 - Peppercorn Rents

- 1.2 The Council has a number of policies and procedures which govern the identification and disposal of its surplus property. These are listed in 4.1 of **Appendix 1**.
- 1.3 A combination of new legislation coming into force, notably The Localism Act 2011, the Property Rationalisation Programme, and Social Return on Investment methodology has meant that a timely revision of existing policies and procedures are proposed together with new criteria to enable officers to apply the protocols according to an individual property disposal.
- 1.4 It is also timely for the Council to review the extent to which it is providing concessions to organisations who occupy Council property. Concessions can be given in a number of ways, but overwhelmingly this is in the form of a reduced or nil rent, commonly known as a peppercorn rent.
- 1.5 An analysis of peppercorn rent arrangements currently in place is included at **Appendix 5**.

2.0 Issues to Consider

- 2.1 When a property of the Council becomes vacant a process is followed to explore the options available to it, including whether there are other services of the Council which the property can support. If there are not, then the Council proceeds to assess what commercial and community interests may be in the property.
- 2.2 It is proposed to adopt updated protocols by which to govern the process of disposal of property. These are included as **Appendices 2 and 3**.
- 2.3 In the case of community interest this could lead to a disposal of the property at an undervalue (less than best value), which means that the Council accept community proposals that mean it will forego a capital receipt or commercial rent. This raises a number of issues that the Council would need to consider in order for the processes and protocols for disposal at an undervalue to be fair, transparent and ensure consistency.
- 2.4 These issues are:
- (i) That the Council has an expectation that community interests deliver services that in turn deliver the Council's priorities.
 - (ii) That any commercial concessions given to community interests are given on a time limited basis.
 - (iii) That the Council will periodically review the effectiveness of community run services to assess whether eligibility for concessions still exists.
 - (iv) That at the end of the time limited period there is no extension, but a re-application must be made in order to successfully renew a time limited arrangement.
 - (v) That changes in the Council's responsibilities and priorities could lead to changes in any concessionary arrangement.
 - (vi) That market-led solutions may be assessed and deemed more financially preferable to community run services.
 - (vii) The criteria for assessing the 'social value' of a proposed community use.
 - (viii) An assessment of each community interest on its own merits
- 2.5 The analysis of peppercorn rents currently in place, at **Appendix 5**, range from long-standing arrangements, the basis for which is difficult to establish, to the more recent arrangements established under the current protocols with clear rules on review and renewal. Applying consistency and transparency across the piece is yet to be achieved, and therefore it is proposed to review all arrangements on a consistent basis proposed by the new criteria, and to make recommendations on any future arrangements and the extent of any concessions.

3.0 Next steps

3.1 That the comments of the Corporate Services Overview and Scrutiny Committee inform the preparation of updated protocols for:

- (i) Disposal of Surplus Property
- (ii) Disposal of Surplus Property at an Undervalue,
- (iii) New criteria for the assessment of disposals at an undervalue.

3.2 The Corporate Services Overview and Scrutiny Committee is also invited to comment upon the peppercorn rents currently in place.

4.0 Background Papers

4.1 None

List of Appendices:

Appendix 1 - Introduction to Property Protocols

Appendix 2 - Protocol – Disposal of Surplus Property

Appendix 3 - Protocol – Disposal of Property at an Undervalue

Appendix 4 - Criteria

Appendix 5 - Peppercorn Rents

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WARWICKSHIRE COUNTY COUNCIL

PROPERTY PROTOCOLS

INTRODUCTION

1. WHAT IS A PROTOCOL?

1.1 Protocols are intended to assist Councillors and Council staff, and ensure consistent decision making, by highlighting the main principles of law policy and procedure which should be taken into account in particular areas.

1.2 Relevant Protocols should be read in their entirety at the outset of a matter, and certainly before significant decisions are made. Care should be taken to record that regard has been had to the Protocol at the appropriate stage in decision making.

1.3 Protocols are not law, nor do they form part of the Council's Constitution/ Standing Orders. In some cases the particular circumstances may dictate that the Council should depart from the Protocol. However, the reasons for that departure should be recorded in writing by Officers.

1.4 Similarly, while Protocols are a valuable guide, decision makers must still exercise their minds in each case as to whether the matter before them falls squarely within the terms of the Protocol, or whether any special authority or clarification needs to be sought to allow a matter to progress.

1.5 Legal advice should be sought if decision makers are in any doubt over the applicability of a Protocol in any particular context.

1.6 Protocols are distinct from 'policy', being more in the nature of a procedural 'signpost' as to where the relevant policy is to be found.

2. OFFICERS AND ELECTED MEMBERS/ OTHER DECISION MAKERS

2.1 Protocols will affect the work of both Officers and Elected Members. They will in the first instance be most relevant to Officers who are formulating reports for the ultimate decision maker. Such reports should take account of relevant Protocols, and ideally specify which have been taken into account.

2.2 The ultimate decision maker will base their decision on the report before them, rather than on the Protocol directly. The decision maker is not bound to follow the Protocol to the letter (as per paragraph 1.3 above). Decisions should be made on the basis of all relevant facts, circumstances, policies, procedures and Protocols, and with an open mind.

2. CURRENT PROTOCOLS

2.1 The following protocols are proposed at **Appendices 2 and 3**.

Protocol re Surplus Property

Protocol re Disposal of Property at an Undervalue

3. CHECKLISTS

3.1 Each Protocol has a 'Checklist' at the end which should be printed off and placed on each project file. The steps specified in the Checklist should be followed and the date of compliance noted.

3.2 While the Checklists serve as a useful guide/ reminder, they are not a substitute for reading and properly understanding the Protocols.

4. SUPERCEDED PROTOCOLS AND POLICIES

4.1 The following have been superseded and should no longer be referred to in decision making.

- a) Surplus Property Protocol (Cabinet 14 July 2011, Agenda 12)
- b) Social Enterprise – Warwickshire's Strategy (Cabinet 12 May 2011, Agenda 7)
- c) Protocol for the Lease or transfer of public assets to community interests (Cabinet 17 February 2011, Agenda 4)
- d) Procedure for Declaring Property Surplus (Cabinet 10 September 2009, Agenda 16)
- e) Disposal of Property at less than best consideration (Cabinet 23 March 2004, Agenda 13)
- f) Policy regarding the disposal of Freehold / Leasehold interests in the Council's property stock and the granting of concessionary rent terms. (Cabinet 19 December 2002, Agenda 35)

Version 2 – September 2014

PROTOCOL RE DISPOSAL OF SURPLUS PROPERTY

- Must be read in conjunction with “Protocol re Disposals of Property at an Undervalue”
- Protocol must be read before using Checklist
- Checklist to be completed by Warwickshire Legal Services and Physical Assets

1.0 General Principles

Why do we need a protocol about the disposal of surplus property?

- 1.1 To provide a robust procedural framework that informs and directs decision making and day to day portfolio management activities to assist in effective property asset management.

Why is this protocol being revised?

- 1.2 Previous procedures require revision to reflect new legislation which has impacted on the Council’s ability to sell its surplus property. The Localism Act 2011 has had a particular impact in this context with the advent of the “Community Right to Bid”: further information about this is provided in Section 5 below.

When will this protocol apply?

- 1.3 In any case where it is proposed to dispose of Council property because it has become surplus to the Council’s own requirements. This includes the sale of freehold property or properties held under a lease but does not apply to part of a property or lettings linked to service provision. Disposal of a property includes outright sale or letting of a property.

Management of WCC property portfolio

- 1.4 The vast majority of Council property is managed centrally (“centralised property/ies”) by the Physical Assets Business Unit in the Resources Group.
- 1.5 Exceptions: The only properties currently falling outside of this category (“non-centralised” property/ies”) are ‘education’ sites which comprise schools (including special educational needs schools), nurseries, Pupil Referral Units, and Sixth form colleges and some Communities sites where the property is deemed to be integral to the service being provided (ie; Business Centres, Country Parks, household waste sites, gypsy and traveller sites and highways). Disposals in the case of education sites may require consent from the Secretary of State for Education and the Government has dictated the manner in which any proceeds of sale must be expended. Accordingly they are not available for distribution in the way other proceeds of sale in respect of Council land would be.
- 1.6 This Protocol provides guidance on how any freehold or leasehold property that is no longer required by the Council, is managed prior to its ultimate disposal. This Protocol addresses:
- How to determine that a property is no longer required by the Council
 - What happens once a property has been identified as being ‘surplus’ to the Council’s requirements.

- The mechanism for securing appropriate authority for disposal of the property and
- The funding and management of surplus property prior to its disposal.

Key Drivers

- 1.7 The Council is committed to securing a property portfolio that provides suitable, sustainable accommodation that maximises the efficiency of service delivery.
- 1.8 The Council's property requirements are determined by service delivery needs. These are continually being monitored and reviewed as part of the Asset Framework management undertaken by the Asset Strategy team in Physical Assets (PA), the Service within the Resources Group which has responsibility for maintaining an overview of all property requirements and service delivery property needs.
- 1.9 Rationalisation of the property portfolio to reduce revenue costs and the consequent delivery of capital receipts and revenue are key Council objectives and are critical to the delivery of cost savings.
- 1.10 Where a property is no longer required by a particular BU or Service, consideration must first be given to the suitability of the property for continued use and ownership by the Council (ie is the building in an acceptable state of repair, is it appropriately configured and in a suitable location and is it financially viable etc) and how this property might be reused. This process is described in more detail under Section 2 – Disposal of Property Assets.
- 1.11 Only property capable of beneficial use or occupation can be declared surplus e.g. parts of buildings that cannot be separately occupied or property that has no alternative practical use for the Council cannot be declared surplus (for example land lying to the rear of a closed school site which cannot be accessed except across the rest of the site).
- 1.12 Disposal of any freehold or assignment of a leasehold property cannot take place without appropriate Member or delegated approval to the property being declared surplus. Details of transactions and the relevant forms of approval that are required are set out in **Document 1** attached to this Appendix.

2.0 Disposal of Property Assets – Procedures

- 2.1 The process set out below applies to both freehold and leasehold properties and seeks to ensure that property transactions are carried out in an appropriate manner and have the required approval to enable them to take place. There are slight variations in the process depending on whether the properties fall within the centralised or the non-centralised portfolios and these are addressed in this Protocol.

2.2 Stage 1 – Determining that a property is surplus to requirements

Centralised Properties

- 2.2.1 Properties that are part of the centralised property portfolio can become available for disposal in two different ways:
- When a BU/Service indicates that it no longer has a need for the accommodation (ie the property, or part of the property, is no longer required because of a reducing service or it is no longer suitable for the service) or

- When PA determines that the asset should be released (eg as part of property rationalisation).

2.2.2 When a BU/Service occupying a centralised property determines that the premises are no longer needed for delivery of their service, they are required to advise PA in writing that the property is 'surplus' to their requirements. This notification must be from the Head of the relevant BU/Service (or alternatively the relevant decision making group e.g. Strategic Directors Leadership Team) and should be in the form of a Surplus Property Notice (SPN – see **Document 2** attached to this Appendix). This will be the formal confirmation from the BU/Service that the property is no longer required by it.

2.2.3 In practice, this notification should only be confirmation of an event that has already been planned and anticipated and that PA are already aware of through their interaction with the BU's.

2.2.4 A centralised property may also be identified as surplus by PA in its capacity as the strategic asset management service overseeing the wider corporate portfolio.

Non-Centralised Property

2.2.5 In the case of non-centralised property, when the BU/Service responsible for a property decides that an asset is no longer required for delivery of its function, they are also required to notify PA of their intention to vacate the property and declare it surplus to their requirements. This should also be done using an SPN. This should specify full details of the property including details of annual running costs and known maintenance issues as well as the planned programme for vacation of the property.

2.2.6 This notification should be given at least six months in advance of the intended date of vacation to enable PA via the Asset Strategy Board (ASB) to determine whether there are any other possible uses for the property– and to formulate a strategy for its future, once it has been vacated.

2.3 Stage 2 – Assessment of alternative uses

2.3.1 Following the Stage 1 process, an assessment is carried out by PA to determine if there is any other viable alternative use for the property, either by the Council or its partners. This applies both to centralised or non-centralised property.

2.3.2 Where appropriate this assessment will involve discussion with the relevant District/ Borough Councils, Police, PCT and Government Agencies. Local members should be made aware at this stage of the potential that property/properties may be brought forward for disposal.

2.3.3 For the avoidance of doubt this procedure is separate from, and will usually precede the "Assets of Community Value" procedure which is referred to at paragraph 5 below. The two procedures may however overlap to a greater or lesser degree if the property is registered as an Asset of Community Value at an early stage in this procedure.

2.3.4 PA is responsible for considering if it is appropriate or viable to retain any property and this process will be undertaken within 3 months of receipt of an SPN via the ASB.

2.3.5 It is imperative that the assessment records the monetary and non-monetary value of each alternative use. A transfer to a public sector body should be at market value which can be determined by external valuation advice from the District Valuation Service acting on a joint instruction from the Council and the interested public body. If this exercise suggests that any of the alternatives may result in a disposal at an undervalue, the 'Protocol re Disposals of Property at an Undervalue' must be consulted forthwith and applied to the extent necessary.

2.4 Stage 3 – Determining the strategy for the future of an asset

2.4.1 The review of the probable alternative uses for the property has three potential outcomes:-

- To retain the property and re-use it for provision of another Council service
- To retain the property and lease it to a third party.
- To dispose of or/release the property

2.4.2 The outcome of this analysis will be reviewed and reported to the Head of PA/ Asset Strategy Board or other appropriate decision making group to approve the recommendation. This report must include the business case supporting the chosen option i.e. the rationale for the decision that is being recommended. The approval of the Head of Physical Assets/ ASB, will be the mandate for the disposal or letting to be undertaken by Estates, subject to Member approval where appropriate.

2.4.3 The remainder of the procedures set out in this protocol only apply if the property is to be leased to a third party or disposed of.

2.5 Stage 4 – Securing authority to declare surplus and dispose of asset

2.5.1 An essential prerequisite to disposal of a freehold or leasehold asset is to obtain Member/ delegated approval confirming that it is surplus to the Council's requirements and that a disposal can proceed.

2.5.2 The relevant report (i.e. Portfolio holder/Cabinet/Council) will be prepared by PA (Estates) in conjunction with the BU where appropriate. Issues to be addressed in the Report are outlined later in Section 3 of this Protocol.

2.6 Stage 5 – Disposal of the asset

2.6.1 Disposal or the release of a property will differ depending on whether it is a freehold or a leasehold asset.

2.6.2 The procedures for disposing of leasehold and freehold assets are set out below.

2.6.3 Leasehold Property

2.6.3.1 Where property is held by way of lease, if it has been determined through Stages 1 – 3 above, that the property is no longer required, Estates will be instructed by the Head of PA to bring the Council's liability to an end as soon as possible by the most appropriate means, which may be by:-

- issuing a notice to terminate the lease at the end of the contractual term
- triggering a break provision, in accordance with the lease provisions
- negotiation of the surrender of the lease
- securing a subletting of the property until such time as the contractual term of the lease expires or
- securing an assignment of the lease

2.6.3.2 Disposal of a leasehold property by termination of the lease or exercise of a break clause will not generate a capital receipt, but will remove the Council's ongoing financial liabilities. These methods of lease termination do not usually require specific Member approval and would be progressed under the relevant delegated powers. However, the surrender,

subletting or assignment of a lease may require Member approval depending on the financial implications.

2.6.4 Freehold Property

2.6.4.1 If it is determined that a freehold property is no longer required by the Council, Estates will be instructed by the Head of PA to dispose of the asset on the open market using the method that is deemed most appropriate for the individual property, having regard to timescale, the nature of the property and prevailing market conditions. In certain circumstances a disposal could be made on a 'one to one' basis and not on the open market (eg to a public sector body, partner or community group) or a special purchaser reflecting the decision by the Head of PA/ASB.

2.6.4.2 In establishing the most advantageous mechanism for disposing of a property Estates will take into account all appropriate vehicles for structuring the sale e.g.: conditional/unconditional sale/ option agreement, and the impact of potential deductions to the proceeds of sale such as sums required by way of Section 106 Planning Obligation payments, or Community Infrastructure Levy ("CIL").

2.6.4.3 The planning status of the property, and the area in which it its location, will be key factors in determining the open market value.

2.7 Stage 6 – Management of surplus property prior to disposal

2.7.1 The management and/or decommissioning of redundant property also needs to be considered when a property is declared surplus to the Council's requirements since there will be ongoing financial and ownership liabilities until the property is disposed of.

2.7.3 Decommissioning and security of the property will need to be addressed prior to the building being vacated.

2.7.4 In the case of centralised properties there will be no transfer of financial liability from the BU/Service because these assets are already managed and funded from the central property budget.

2.7.5 In the case of non-centralised property, the BU/Service will remain responsible for managing the asset, together with the associated costs (eg security, emptying the property, maintaining grounds, disconnection of services, final utilities) for a period of six months following the date that Cabinet or Portfolio Holder authority to its disposal is confirmed, or until the asset is vacated, whichever is the later (for example, if Cabinet authority is granted, but the occupier does not vacate for a further 12 months, the liability remains with that Service occupier until vacation).

3.0 Member Reports

3.1 There are a number of essential elements that need to be addressed in any report presented to Members seeking approval for the disposal of any property. The following is not a definitive list but highlights issues that need to be considered.

3.1.1 Business Case

3.1.1.1 A business case is always required, to support a request to declare a property surplus and to authorise its disposal. This may be a very simple outline of the financial and operational reasons why the property should be released but may comprise a more sophisticated assessment of the rationale for releasing the property, including the capital and revenue

implications. It may also include an option appraisal or feasibility study to support the recommendation.

3.1.2 Financial Implications

3.1.2.1 The financial implications of a decision to declare a property surplus and dispose of it extend beyond the basic cost benefit analysis which should demonstrate the capital and revenue advantages that arise from this course of action. For example, the report should refer to the level of capital receipt/revenue saving that will arise from the proposed disposal, whether the receipt or part is to be earmarked and what implications this may have for the Capital Programme and Capital Fund as well as how any associated costs relating to the release of the property are to be met. These matters are explained more fully in Section 4 – Financial Considerations.

3.2 Recommendations

3.2.1 The recommendations proposed by the report should be clear and unequivocal. When the report is seeking authority to declare the property surplus and dispose of the property, the following words should be used: "...that the property known as xxx be declared surplus to the Council's requirements and disposed of on terms acceptable to the Strategic Director of the Resources Group"

4.0 Financial Considerations

4.1 The primary objective of disposing of Council owned property assets is to generate capital receipts that can be used to fund new capital investment or repay loans that have been taken out to finance capital investment thus reducing borrowing costs. The policy governing the use of capital receipts is set out in the Capital Receipts Strategy.

4.2 A report seeking authority for property to be declared surplus and made available for disposal needs to address the following issues:

- how the receipt will be used
- whether there is any necessary capital expenditure required to facilitate the disposal
- whether there are Capital Programme implications
- how interim costs relating to the surplus property will be funded

4.3 Earmarking

4.3.1 Any capital receipts received can be used either to fund future capital investment or reduce debt. However as an alternative, earmarking is a mechanism for ring-fencing part or all of a receipt for a specific capital investment project.

4.3.2 To secure proceeds from a disposal for a specific project, a report authorising the sale of an asset must make a specific request to Council (supported by a business case) to earmark the receipt for a specific project. Since the fundamental premise regarding the use of capital receipts is that they are first and foremost a corporate resource to provide flexibility for the funding of corporate plans and policies, earmarking should only be considered where appropriate and necessary. Requests should therefore only be made where the receipt is required to cover legitimate decanting costs and/or replacement costs.

4.3.3 Any application for earmarking of a receipt must provide full justification as part of the business case. This should address:

- How much of the receipt is required to fund the investment project
- Whether temporary borrowing is required to finance the project prior to the receipt being obtained
- What other sources of finance are being used to fund the project that requires the earmarked receipt
- What will happen in the event of a shortfall/surplus in the anticipated receipt
- Clarification on the current status of the asset (eg its current use, whether it has already been declared surplus and is part of the identified capital receipts programme)
- The rationale for disposing of the asset in this way and why it was not already in the disposal programme
- The potential value of the asset if sold for an alternative use
- Why the earmarking is being linked to the specific capital investment project
- The reason for not bringing the scheme forward as part of the Medium Term Financial Planning/Budget process.

4.3.4 All such reports requesting the earmarking of receipts must be cleared by the Head of Finance before the report is circulated to Members.

4.3.5 The disposal of school sites - The principal exception to the general earmarking procedure described above relates to the disposal of school sites or part sites and is outlined in the Capital Receipts Strategy (ie capital receipts from former school sites are earmarked for Education Capital Schemes).

4.4 Property Rationalisation Programme (“PRP”)

4.4.1 The Council is committed to generating efficiency savings in its use of property. The PRP is a rolling procedure devised by the Council to achieve that objective. This Protocol comes into effect when the PRP identifies that disposal of a property is the Council’s preferred option. This Protocol is designed to ensure that the PRP is implemented in the most efficient and effective manner possible. Phase 1 of the PRP finishes at the end of March 2015. Phase 2 of PRP will cover the period from April 2015 until March 2018.

4.4.2 Where the disposal of a property is a previously agreed part of PRP this should be clearly stated in the report. If the use of any revenue saving (from using the receipt to repay debt) is predetermined the report should include an assessment of the revenue benefit. These figures will be provided by Finance.

4.4.2 If the disposal is not a previously agreed part of the PRP then the following should be included in the report (adjusting the dates and amounts to correspond with the most recent budget resolution prior to the proposed disposal):

The [] budget resolution included a challenging target to deliver £[] million savings from property rationalisation by []. The sale of this surplus property is part of the programme for the rationalisation of the Council's property assets. It is therefore proposed that the revenue saving from using the capital receipt to repay debt is taken as a contribution towards the delivery of the property rationalisation savings target. The revenue saving is estimated to be £X,XXX. As a result the receipt will not be available to fund any additions to the capital programme.

4.4.3 If neither of these criteria are met then the revenue saving from the receipt will form part of corporate resources.

4.5 Disposal Costs and the Capital Programme

- 4.5.1 Costs associated with disposal activity can be funded from the eventual receipt and can be added to the capital programme provided that this expenditure enhances the value of the asset. Costs relating to the demolition of buildings and obtaining relevant planning consents are two common items of expenditure that can be offset against the final capital receipt.
- 4.5.2 All capital expenditure has to be included and accounted for in the Capital Programme which is authorised by Council as part of the annual budget setting process and is amended on a quarterly basis to take account of changes in financial planning.
- 4.5.3 A report seeking Member approval for a property to be declared surplus and disposed of should confirm if expenditure of this nature will be required and also request an addition to the Capital Programme to cover these costs.
- 4.5.4 Expenditure of less than £1.5million can be approved by either Deputy Leader or Cabinet or as part of the annual budget setting process, and costs must be fully funded. Council authority is required for expenditure in excess of £1.5million.

4.6 Capital Fund

- 4.6.1 The Capital Fund is a revenue fund, to which each year revenue costs that are directly attributable to disposals can be charged. In previous year's costs such as fees for work carried out by property staff, legal staff and external contactors have been charged to the fund.
- 4.6.2 Such revenue disposal costs can be financed from the capital receipt and the first call on any monies received will be to meet these costs. However the amount that can be taken from the receipt is limited to the lesser of the costs that can be evidenced as directly attributable to the disposal or 4% of the capital receipt.
- 4.6.3 Any disposal costs over and above the 4% cap will have to be met by either the surplus on the capital fund balance or in the absence of an available surplus, other funding sources.
- 4.6.4 The amount of the capital receipt remaining after this deduction, which will be a minimum of 96% of the amount received, is then available to repay the Council's debt or fund further capital investment. Officers should therefore be aware when planning the use or earmarking of any receipt that the first call upon it will be to fund disposal costs.

4.7 Interim Disposal Costs

- 4.7.1 When an asset is declared surplus there may be on-going costs attributable to the asset which are not directly linked to its disposal (eg decommissioning and security costs). These cannot be funded from capital and will have to be met from revenue budgets until the asset is disposed of.
- 4.7.2 For centralised property assets, interim disposal costs will be met by the Surplus Property Budget once the property has been declared surplus and vacated. Until then the costs of these properties will continue to be met by the central corporate property budget.
- 4.7.3 When non-centralised properties are declared surplus, the BU/Service will continue to be responsible for the costs of the management of the property for six months after it is declared surplus, or until it is vacated, whichever is the later.

5.0 Community Right to Bid / Assets of Community value – Special Considerations

5.1 The Listing Procedure

- 5.1.1 It may be that a County Council property is listed by the relevant District or Borough Council as an 'Asset of Community Value'. The listing Council is required to give the County Council notification that this has occurred. Listing could potentially occur at any stage in the disposal process.

5.2 The Moratorium

- 5.2.1 If the County Council wishes to dispose of a listed asset it has to notify the listing council. The community group which listed the asset then has a period of 6 weeks to request to be treated by the County Council as potential purchasers of the land ("the Interim Moratorium").
- 5.2.2 If any such group makes a request this triggers the 'Full Moratorium' a 6 month period during which the community group can put together its bid for the County Council's consideration. No sale can proceed during this period **BUT** the County Council may proceed with marketing, as long as it is made expressly clear to potential buyers that it will not be possible to complete a sale unless/ until the Assets of Community Value procedure is completed.
- 5.2.3 However, the County Council is not required to accept the bid made by the community group. When the Full Moratorium expires the County Council can if it wishes proceed with a sale to a third party. Accordingly, while listing as an asset of community value may delay a disposal, it does not prevent it altogether.

5.3 Must the County Council give preferential treatment to Community Bids?

- 5.3.1 The County Council should consider the Community Bid along with any others received in the disposal process and apply the Golden Rule to them all. If the Community Bid is the best according to the "Golden Rule" (defined in paragraph A.3 of the Protocol re Disposals of Property at an Undervalue) the County Council should accept it. However, if the Community Bid is not the best according to the Golden Rule it should not be given preferential treatment purely because it is a Community Bid.
- 5.3.2 Neither the 2011 Act or this Protocol bar the Council from **seeking** other bids prior to determining which bid to accept. However, the Council cannot make a final decision on which bid to accept until the relevant Moratorium Period has expired.
- 5.3.3 Any decision as to which bid is to be accepted must be clearly recorded, so that if a legal challenge is brought it is clear what criteria the County Council applied when reaching that decision.
- 5.3.4 The Community Right to Bid procedure is complicated. Advice should be sought from Warwickshire Legal Services at an early stage should it appear likely that it will become relevant.
- 5.3.5 More detail regarding the procedure can be found here:
<https://www.gov.uk/government/publications/community-right-to-bid-non-statutory-advice-note-for-local-authorities>

5.4 What is "the Community"?

- 5.4.1 The exact meaning of community may vary from property to property, and from time to time. Ultimately all residents of Warwickshire (and businesses based within the County) constitute the wider County Community. Within that County Community are many sub-communities (Districts and Boroughs, Towns, villages, localities etc).

- 5.4.2 Proposed disposals must be judged firstly against the needs of the County Community as a whole. If sale at open market value would achieve an overwhelming benefit for the whole County Community (through the proposed use of the proceeds, or by the use to which the land is to be directly put) that might in some circumstances outweigh the aspirations of more local community bodies.
- 5.4.3 However, in the case of many (perhaps most) proposed disposals, the impact on the local community may be greater than that on the County Community as a whole, and the particular wishes and aspirations of the local community will accordingly carry more weight.

Documents:

Document 1 - Member/delegated powers

Document 2 - Surplus Property Notice

Version 1 – August 2014

Document 1 – Member/delegated powers

Action	Threshold	Authority required
Declare a property surplus	Value less than £100,000	Delegated powers – Strategic Director
	Value more than £100,000 but less than £1 million	Delegated powers – Portfolio Holder for Customers
	Value in excess of £1 million	Cabinet
To authorise all sales at market value	Value less than £100,000	Delegated powers – Strategic Director of Resources
To dispose of a freehold property	Value more than £100,000 but less than £1 million	Delegated powers – Portfolio Holder for Customers
To dispose of a freehold property	Value in excess of £1 million	Cabinet
To grant at market value leases, easements and licences over County Council property or for the benefit of the County Council	Annual rent or fee is less than £25,000	Delegated powers – Strategic Director of Resources
	Annual rent or fee is greater than £25,000 but less than £250,000	Delegated powers – Portfolio Holder for Customers
Earmark the whole or part of a capital receipt	All transactions	Council
Add an item of expenditure to the Capital Programme	Value up to £1.5 million	Cabinet
Add an item of expenditure to the Capital Programme	Value in excess of £1.5 million	Council

Document 2 – Surplus Property Notice

[Address/Description of property]

I [authorised officer] of the [BU/Service] confirm that the above property is no longer required by the [BU/Service] and it is our intention to vacate the property on [date]

In the case of a 'non-centralised' property this Notice should also include details of the annual running costs of the property and any maintenance issues of which the Service/BU is aware.

Annual Running costs

[Complete details]

Maintenance Issues

[Complete details]

Signed
on behalf of [BU/Service]

Dated 20[]

To: Head of Physical Assets
Resources Group
Warwickshire County Council
Shire Hall
CV34 4RL
Copy to Head of Estates, Resources Group

I acknowledge receipt of your Notice dated []

Signed
Head of Physical Assets
Dated 20[]

CHECKLIST RE SURPLUS PROPERTY

(for completion by Warwickshire Legal Services and Physical Assets)

FILE REFERENCE

FILE/MATTER NAME

TASK

DATE

Instructions received from BU/ Service/ Physical Assets indicating premises are to become surplus

Predicted date to become surplus

File opened/re-opened

Protocols reviewed and note filed re issues arising

Assessment of alternative uses completed and note filed re issues arising

Community Right to Bid – Check if property listed as Asset of Community Value

Yes/ No (delete as appropriate)

If listed as Asset of Community Value:

Expiry of Interim Moratorium:

Expiry of Full Moratorium:

Protocol re Disposal of Property at an Undervalue fully complied with

Report to Cabinet (or date of decision by other Decision Maker)

Date of Legal Instructions to dispose

Legal proceedings received

Completion of disposal

PROTOCOL RE DISPOSALS OF PROPERTY AT AN UNDERVALUE

- Must be read in conjunction with “Protocol re Surplus Property”
- Protocol must be read before using Checklist
- Checklist to be completed by Warwickshire Legal Services and Physical Assets

A. GENERAL PRINCIPLES

1. WHEN WILL THIS PROTOCOL APPLY?

This Protocol is relevant whenever the Council is considering disposing of any property interest at less than the best value which could have been obtained had the same interest been disposed of on the open market (“Open Market Value”). This may arise in various scenarios. The following are examples, not a complete list:

- 1.1 In connection with the delivery of services by a third party on behalf of the County Council (e.g. by way of a service level agreement)
- 1.2 To promote a particular policy goal of the Council e.g. the disposal of land to a housing association, or the provision of business accommodation to new businesses.
- 1.3 Supporting voluntary and community groups whose aims and objectives are consistent with the Council’s own priorities and who will benefit the social, economic and environmental wellbeing of the Council’s area.
- 1.4 Complying with specific legal obligations applying to the Council e.g. the “Community Right to Bid” under the Localism Act 2011.
- 1.5 Considering any request by a School that the Council should forgo its entitlement to claim all or part of the proceeds of sale generated by the sale of School land.

2. MAIN DRIVERS

All decisions by the Council must be based on the following (in that order):

- 2.1 Law
- 2.2 Council Policy

3. LAW

- 3.1 The “Golden Rule” – Fiduciary Duty – The Council is the custodian of public funds provided by the taxpayer. As such there is an overriding duty on the Council to deal with those funds as efficiently as possible. This duty applies to all spheres of Council activity but is of especial importance when it is proposed to dispose of property assets for less than their Open Market Value. Whatever legal provisions may be relevant in a particular case they should always be applied with regard to the Golden Rule. Just because the Council has a power to do something, it should not do it if that would involve breaking the Golden Rule.
- 3.2 Section 123 of the Local Government Act 1972 – Provides a general power for councils to dispose of land, but Section 123(2) provides that without the consent of the Secretary of State no disposal may be “for a consideration less than the best that can reasonably be obtained”.
- 3.3 Department for Communities and Local Government Circular 06/03: Local Government Act 1972 general disposal consent (England) 2003 – Permits disposal of land at an undervalue (up to a maximum undervalue of £2 million where that promotes “economic, social or environmental well-being”): https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7690/462483.pdf
- 3.4 Special consents may permit sales at greater undervalues in connection with e.g. disposal of land for housing purposes.
- 3.5 **“The Two Stage Test”**
- To apply the Golden Rule properly it is necessary to know two things: (i) the Open Market Value of the Land, and (ii) the Value of Social Benefits that would be generated by the proposed disposal. Valuing Social Benefits is dealt with below at paragraph 3. Once these two figures are known they can be balanced against each other.

B. PARTICULAR ISSUES

1. LOCALISM ACT 2011

- 1.1 Community Right to Bid (Sections 87-104) (“CRTB”) – If the property in question has been listed by the local District/ Borough Council as an “Asset of Community Value” the Council will be required to observe additional procedures prior to any disposal. These are explained in greater detail in the “Protocol re Surplus Property”.
- 1.2 Community Right to Express an Interest (Sections 83-84) (“CRTE”) – This right should not be confused with CRTB. It refers to the ability of community groups to bid for the right to deliver services for the Council. Provided that the requirements of the Protocol re Surplus Properties have been complied with (paragraphs 2.4.1 and 2.4.2) it should have become apparent at an early stage whether it is feasible for existing Council services to be continued from

the premise via a third party. If a definitive decision has been made not to continue services from that premises CRTE will no longer be relevant to the disposal process.

- 1.3 Best Value Statutory Guidance - Setting out the Government's expectation that Councils should not unfairly target voluntary groups when funding reductions are being sought. As with the CRTE an Interest this will not be relevant in most disposal scenarios unless the voluntary group is already occupying the premises in question for the purpose of delivering a service on behalf of the Council and a proposed disposal would have the effect of terminating the voluntary groups occupation:
<https://www.gov.uk/government/publications/best-value-statutory-guidance--4>

2. SPECIAL CATEGORIES OF LAND

- 2.1 Schools – Most disposals of Council land used by Schools will require consent from the Secretary of State for Education. The application procedure is complicated, requires extensive public consultation, and may take in excess of 16 weeks from date of application to process. In the event consent is forthcoming (which cannot be guaranteed) the consent may require that the proceeds of any sale be devoted to particular recreational or school projects:
<https://www.gov.uk/school-land-and-property-protection-transfer-and-disposal>
- 2.2 Entitlement to Proceeds of Sale from Redundant School Sites – In respect of certain categories of School the Council may have an entitlement to all or part of the proceeds of sale in the event that the School closes, or moves to a new site, allowing its former site to be sold. The rules governing the Council's entitlement in such situations are extremely complicated. Advice should be sought from Warwickshire Legal Services in the event that such issues arise. It **may** be that the Council is sympathetic to allowing the School to retain the sum due to the Council if it will be spent on purposes which are consistent with the Council's own policies. However, any decision to forgo an entitlement is similar to that which the Council has to reach on the disposal of land at an undervalue. This Protocol should therefore be applied in any case where an entitlement is at issue.
- 2.3 Open Spaces – There are additional publicity requirements in respect of proposed disposals of open space land. Notices to be published for two consecutive weeks in a local paper and consideration be given by the Council to any objections submitted.

3. VALUING SOCIAL BENEFIT

3.1 The Problem

3.1.1 Social benefit may often be difficult to quantify in monetary terms. For example, exactly how much would the community benefit from a new community centre if the Council were to dispose of premises at an undervalue to a community group for this purpose?

3.1.2 There is a risk that decision makers will expose the Council to challenge if they are perceived as having relied on purely subjective judgements to establish social value. To minimise this risk decision makers should consider the following matters, and record in writing the conclusions they reach.

3.2 The Solution

3.2.1 Various attempts have been made to devise more objective systems for valuing social benefit. One of the best known is “Social Return on Investment” (“SROI”):

<http://www.thesroinetwork.org/sroi-analysis/the-sroi-guide>

Decision makers should familiarise themselves with the principles which underlie SROI even though it may not always be practical to carry out the detailed research required to produce an exact social value in respect of every proposed disposal.

3.2.2 The Essential Criteria

Decision makers should assess the proposed disposal against the following essential criteria which are sufficiently detailed to allow the decision maker to justify the social value which is ascribed to the disposal.

- Where does the area in which the property is located feature in the UK Indices of Multiple Deprivation?
- How will the disposal serve the economic social or environmental wellbeing of that area?
- How many local people are predicted to use any facility that will be facilitated as a result of the sale?
- How would the Council apply the proceeds of sale if sold on the open market, and answer the same three questions re social value, so that we end up with a social value for both options?

4. COUNCIL POLICY

Regard should be had to the following in so far as they may impact on a proposed transaction:

4.1 **Supporting Voluntary and Community Organisations** (Cabinet 17 February 2011 (Agenda 4) and,

4.2 **Social Enterprise and Staff Mutuels** (Cabinet 12 May 2011, Agenda 7)

- These policies were developed by the County Council to implement the Government's evolving 'Big Society' policy. Local authorities were encouraged to devise new models of service delivery, no longer involving the provision of services directly, and to allow voluntary organisations to play a greater role in day to day society.
- The Big Society policy has continued to evolve and some aspects of the County Council's policies are now mandated by Government e.g. the Best Value Statutory Guidance and other limbs of the Localism Act mentioned in B1 above.
- Disposing of property at an undervalue is potentially relevant to both of these policies, being one means of assisting either Voluntary Organisations or services 'spun out' by the Council to third party operators.
- The 'Golden Rule' will apply in all such cases as it does with any other transaction. The fact that a proposed transaction will assist the delivery of a key County Council service, or benefit the economic, social or environmental wellbeing of an area, will be highly relevant to the County Council's decision. However, decision makers will still need to quantify the amount of proceeds foregone before making a decision, in order to reach a properly informed decision as to whether the social benefit generated by the disposal is sufficient to justify the sum forgone.

4.3 **Asset Management Framework/ Property Strategy 2013 - 2018**

<http://intranet.warwickshire.gov.uk/ourcouncil/Structurestaff/Resources/PhysicalAssets/Asset%20Strategy/Pages/AssetManagementFramework.aspx>

"The Right Property, in the Right Place, at the Right Time"

4.4 Capital Receipts Strategy (Cabinet 11 January 2007, Agenda 5)

Determines how proceeds of sale are to be expended, and restricts the practice of 'ear marking' i.e. devoting the proceeds of sale to a particular purposes rather than being held centrally to repay the County Council's debts. The objective of the Strategy is:

"To ensure, at all times, that we make the best use of the capital value tied up in our assets, whilst maximising the capital receipt income generated to release resources for investment in priority services".

Also refers to the Golden Rule in so far as any sale at less than market value necessarily involves a departure from the Capital Strategy which must be justified in terms of the benefit generated.

4.5 Duration of Leases/ Concessionary Rents (Cabinet 19 December 2002, Agenda. 35)

In 2002 the County Council adopted a policy of not granting leasehold disposals of more than 25 years save in exceptional circumstances, in order to prevent the Council's future freedom of action being unduly hampered.

Similarly, the Council occasionally provided support to tenants by means of concessionary rents periods. To set some limit on the amount of lost rent, it was a policy not to allow the concession to endure for more than five years.

In light of the changes introduced by The Localism Act 2011 (re service delivery and assets of community value) the County Council may need additional flexibility to adapt proposed lease terms and rents to the much greater variety of circumstances that may now arise.

However, both the 2002 Policy and the Golden Rule will continue to apply when fixing the term of a lease and deciding upon a rent at less than best market value. The longer the term or the period of a concessionary rent, the more difficult it will be to justify a disposal by reference to the Golden Rule, and the greater must be the benefits secured thereby. Therefore, there will have to be an exceptional justification for any concessionary rents for longer than five years. The presumption will be that after five years market rent will be payable.

4.6 Housing Strategy and Affordable Housing Policy – Cabinet 22 April 2010, Agenda 6:

While the County Council is not a statutory housing authority the provision of adequate housing is a critical driver in securing economic and social wellbeing and hence the possibility of directing surplus property to secure affordable housing provision ought to be borne in mind when compiling policy.

5. OVERLAP/ CONFLICT BETWEEN POLICY AND PROTOCOL

- 5.1 Every effort has been made to develop policies in a consistent manner. However, policies and protocols often approach the same key County Council policies from different perspectives. Some degree of overlap between individual policies and Protocols is inevitable. Outright conflict between policies and the Protocol should hopefully be very rare. However, the possibility cannot be eliminated that an innovative disposal proposal may not sit neatly within the scope of existing policies. Decision makers should be wary of this possibility when formulating proposed disposals. If the risk of a conflict is identified this should be recorded in writing.
- 5.2 A departure from policy or Protocol may be justified on the facts of a particular case. What is important is that the departure, and the reasons for it, be properly explained in the final report considered by the decision maker.

C. PROCEDURES

See the “Protocol re Surplus Property”. The procedure set out there for marketing surplus property should be followed subject to such adaptation as may be necessary to reflect the specific issues dealt with in this Protocol/ the facts of each case.

Adherence to the specified procedure will ensure that the Council can quantify the amount of undervalue that would be incurred in respect of a proposed transaction. The decision maker will then be better able address their mind to the Golden Rule and decide whether the amount of non-monetary benefit generated by the transaction is commensurate with the monetary value forgone.

CHECKLIST RE DISPOSAL OF PROPERTY AT AN UNDERVALUE

(for completion by Warwickshire Legal Services and Physical Assets)

FILE REFERENCE

FILE/MATTER NAME

TASK	DATE
Instructions received from BU/ Service/ Physical Assets regarding disposal indicating that an undervalue may be involved	<input type="text"/>
Target date of disposal	<input type="text"/>
File opened/re-opened	<input type="text"/>
Protocols reviewed and note filed re issues arising	<input type="text"/>
Social Return on Investment considered and note filed	<input type="text"/>
Localism Act 2011 considered and note filed	<input type="text"/>
Policy re Supporting Voluntary and Community Organisations considered and note filed re issues arising	<input type="text"/>
Policy re Social Enterprise and Staff Mutuals considered and note filed re issues arising	<input type="text"/>
Asset Management Framework/ Property Strategy 2013-2018 considered and note filed re issues arising	<input type="text"/>
Consider issues arising from proposed duration of lease/ term of concessionary rent and note filed	<input type="text"/>
Housing Strategy and Affordable Housing policy considered and note filed	<input type="text"/>
Capital Receipts Strategy considered and note filed	<input type="text"/>
Protocol re Surplus Property fully complied with	<input type="text"/>
Date of Legal Instructions to dispose	<input type="text"/>
Legal proceedings received	<input type="text"/>
Completion of disposal	<input type="text"/>

Criteria to consider a Disposal at an undervalue

1.0 Freehold Disposal at an Undervalue

- 1.1 Any disposal at an undervalue should be on a leasehold basis unless funding requirements for the proposed disposal require transfer of a freehold interest. A freehold disposal should only be considered where redevelopment of the property is proposed.
- 1.2 An example could be disposal of a site for affordable housing, in accordance with the Council's Housing Policy, or when a property is placed on the open market and an underbid is received which satisfies the Council's service delivery needs. In either case approval is required by Cabinet to dispose at an undervalue.

2.0 Leasehold Disposal at an Undervalue

2.1 User restrictions

- 2.2 By granting a leasehold interest in its property the Council is better able to control continued use of the property, or the nature of any development, by imposing on the tenant user restrictions. These can only be amended by agreement with the Council and remain enforceable even if the tenant obtains planning consent for an alternative use of the property. Rental levels can be significantly reduced dependent on the nature and extent of the user restrictions imposed; reflecting the reduced market seeking property for the permitted uses in the lease.

2.3 Rent options

- 2.4 To avoid the issue of user restrictions adversely affecting rental levels leases should be granted either:

- on a rent premium basis: a one off up front lump sum payment by the tenant with a peppercorn rent payable for the remainder of the lease. (Usually appropriate for longer term leases)

or

- An initial rent can be assessed with either no review, or upward only review in accordance with the increase in the Retail Price Index (RPI).

- 2.5 If a rent concession, or peppercorn rent is approved for up to 5 years the lease term should either:

- Match the concession period (at the end lease the Council can require the tenant to vacate, or grant a new lease to the tenant on completely fresh terms)

or

- Be for a period of up to 25 years but on commencement of the lease the lease to include a rental figure payable on expiry of the concession period with RPI increases on any rent review. This removes any uncertainty of future rent levels for the tenant giving full information before the lease is completed.

2.6 Leases not involving redevelopment

2.7 Leases of property where the building is to be retained (but may be refurbished) should be for a maximum term of 25 years. Leases should be unprotected – meaning the tenant has no right to renew the lease giving the Council maximum freedom to determine the future of the property and avoiding payment of compensation to the tenant.

2.8 Leases of property for redevelopment

2.9 Leases of property where the site is to be redeveloped will need to be granted for a longer term to justify capital expenditure by the tenant and satisfy funding requirements where applicable. The minimum lease term possible should be granted but for housing related schemes the minimum period acceptable to tenants / funders is 99 years.

2.10 Generally a Development Agreement should be entered into between the Council and third party giving the third party the right to carry out development based on plans approved by the Council. On practical completion of the development the Council formally completes the lease with the third party (to become the tenant) in the form agreed on completion of the Development Agreement. The lease permits the tenant to use the development for its intended purpose and any rent premium is paid on lease commencement.

3.0 Issues to be included in Report to Cabinet for disposal at an undervalue

3.1 Any disposal at an undervalue, by way of a lease, or freehold, would require approval by Cabinet. As part of any report to Cabinet a Business Case prepared by the third party would be required highlighting:

3.2 Scheme proposals

3.3 Financial appraisal (to demonstrate viability of the proposal in terms of:

- Capital (if any, including funding sources))
- Revenue funding – (addressing all property holding costs)
- Revenue income
- Direct benefits of the proposal to Council service delivery
- Additional community benefits including employment generation, education/training, health and services for particular groups/communities

- Have regard / comment on existing community facilities in the locality and the likely effect on these from the scheme.
- 3.4 Council officers need to provide in the Cabinet Report valuation information as to the market value and or market rental value of the property that could be achieved by sale or leasing the property to determine the level of proposed undervalue. A table considering the advantages and disadvantages of the proposal and any alternative options should also be included.
- 4.0 Leases linked to service delivery but not by service contract**
- 4.1 In some circumstances letting of Council property may benefit service delivery, but not directly linked to a service contract between the parties. Council Business Units have previously offered assistance in such cases either by granting leases at a peppercorn rent, or by way of a Grant in Kind – effectively foregoing rent payable by the tenant for part, or the whole, of the lease term, including stepped rental assistance reducing over time.
- 4.2 In future a market rent should be assessed for all such leases and if the property is held by a Business Unit other than the ‘sponsoring’ Business Unit any rent foregone should be paid by the ‘sponsoring’ Business Unit to the Business Unit that holds the property. The majority of property has been centralised with Physical Assets being the holding Business Unit.
- 4.3 Grant of a further new lease to a tenant at less than market rental value (i.e. disregarding user restrictions imposed by the Council) would still be deemed as a disposal at an undervalue. Cabinet approval would be required to grant a new lease.
- 5.0 Circumstances where grant of a lease at a peppercorn rent is not considered a disposal at an undervalue**
- 5.1 Lease linked directly to a Council Service Contract**
- 5.2 Where a lease is granted, linked to a Council service contract which is dependent on use of that property with the whole leased area being required for that service contract.
- 5.3 Property has no current commercial value**
- 5.4 Where the property has little commercial rental value but is retained by the Council for potential long term increase in capital value, grant of a lease at a peppercorn for community purposes acting in a ‘caretaking’ role reducing Council property holding costs.
- 5.5 Property held for future Council use, or prior to disposal**

5.6 Often in such circumstances the Council enters into an agreement for occupation by property guardians to safeguard the property at less cost than security patrolling. Alternatively if a suitable third party user is identified a short term lease can be agreed which may be less than market rental value, but reflecting the short term lease arrangement minimising property holding costs to the Council.

6.0 Use restrictions on property that may not result in disposal at an undervalue

6.1 If use of the property is restricted by planning conditions (which could include community use policy restrictions), or title issues, rental value is likely to be adversely affected but a lease would not be an undervalue if only these restrictions apply.

7.0 Existing leases

7.1 A number of actions are proposed in terms of existing leases at a peppercorn rent or leased at an undervalue.

8.0 Protected leases

8.1 These are rare and usually long standing lease arrangements. (e.g. some day care centres, or group homes). The issue to the Council is that the tenant has the right to renew the lease on similar terms and conditions, which could include the peppercorn rent. The Council has limited grounds to require vacant possession and compensation would be payable based on 1 or 2 times the rateable value. The Council's intention to grant a lease to an alternative service provider is not a reason that the Council can use to require vacant possession.

8.2 It is proposed that a rental is assessed in accordance with the lease terms (including any user restrictions) on Rent Review. If the tenancy is linked to a service contract with the Council a rent concession could be granted to match the contract term, with rent payable immediately after.

9.0 Unprotected Leases

9.1 The criteria above should be applied to existing leases. If the lease is deemed as a disposal at an undervalue a rental should be assessed on rent review reflecting user restrictions.

10.0 General

10.1 It should also be noted that the possibility of disposal of a Council property at an undervalue is dependent on suitable Council property being declared surplus. Furthermore the Council's property portfolio is not evenly distributed within the county and so opportunities to assist communities by leasing

Council property at an undervalue will only arise in some locations which may not be areas of priority need.

- 10.2 The Council may wish to consider concessionary rents on a stepped basis, with the level of assistance reducing over time, rather than granting a peppercorn rent for the full lease term. By using stepped rents tenants are likely to adjust to making rent payments, reducing the need for the Council to consider, or make, concessions on rent on grant of a new lease to the tenant.

Peppercorn Rents

	Building Use	Property Description	Tenant Name	Start Date	Lease End Date	Comment on end date	Rent Rec'd	Commercial Use Market Rent	Market Rent reflecting Current Use	Comment re. rent
		Awaiting Service Review								
1	Day Care Facility	KENILWORTH/Waverley Centre, 65 Waverley Road..(SS0268)	Kenilworth Community Care Ltd.	01/09/2007	31/08/2014	Proposed terms for a stepped rent up to market rent agreed internally, People Group to bear income lost to Physical Assets	£0	£26,000	£26,000	Current peppercorn reflects Tenant improvement works. N/A for any new lease
2	Former Social Education Centre	WARWICK/The Emscote Centre, Nelson Lane..(SS0127)	Positive About Young People	27/02/2013	1 month's notice	Tenancy at Will (not formal lease) awaiting outcome of Central Area Local Ctr. review then likely to serve notice and dispose	£4,000	£32,000	£15,000	Acting as 'caretakers' and paying holding costs until outcome of Local Ctr. review.
3	Age Concern	ATHERSTONE/The Partnership Building, Coleshill Road..(SS0197)	Age UK Warwickshire	05/01/2010	31/03/2014	People Group to submit business case for consideration. Physical Assets seeking rental income on grant of new lease	£0	£19,700	£22,000	Service related tenancy (Part). Revised less than best consideration protocol / Community Asset transfer policy may assist
4	Part Of Ground Floor, Fawsley House	RUGBY/Fawsley House, 25 Hillmorton Road..(SS0099)	The Rowan Organisation	01/10/2010	30/09/2011	Holding Over to allow flexibility for WCC to relocate or terminate occupation	£0	£7,100	£5,000	Service related tenancy
							£4,000	£84,800	£68,000	
		Development Agreement								
5	Site Of Swimming Pool, Southam School	SOUTHAM/College, Welsh Road West..(EC0091)	Stratford District Council	01/09/1986	31/08/2046	Reflects 60 year term agreed, but no formal lease in place	£0	£25,000	£25,000	Agreed WCC input land to scheme at the time with school use of facility, now schools paying
							£0	£25,000	£25,000	
		Community Asset Transfer								
6	Communtiy Centre	BULKINGTON/Village Centre, School Road..(CB1127)	Bulkington Village Centre Ltd.	10/06/1998	09/06/2097	Ability to charge rent on 5 yearly rent reviews	£0	£16,250	£12,500	Awaiting revised less than best consideration protocol / Community Asset transfer policy for members to consider implementing rent review
7	Whitestone Community Centre	NUNEATON/Whitestone Infant School, Magyar Crescent..(EN0152)	Whitestone Community Association	tbc	6 month's notice on limited grounds	No formal lease granted, therefore TBC. awaiting revised less than best consideration protocol to formalise occupation.	£0	£5,100	£5,000	Awaiting revised less than best consideration protocol / Community Asset transfer policy for members to consider lease terms and formalise occupation.
8	Community Use	NUNEATON/Queen's CE Junior School (Academy), Bentley Road..(EN0131)	The Veterans	10/09/2013	31/07/2024	Rent review 10.9.2018	£0	£6,000	£4,000	Peppercorn approved in accordance with existing protocol - Cabinet 5.6.2014 Agenda No. 7
9	Youth Centre	BEDWORTH/Youth Centre, Croxhall Street..(EN0177)	Positive About Young People	02/04/2012	01/04/2019	Rent review date 2.4.2017	£0	£7,000	£6,000	Peppercorn for 5 years agreed as part of formation of Social Enterprise, externalising PAYP
10	Community Centre and 6 car parking spaces	STRATFORD-UPON-AVON/Bishopton Primary School, Drayton Avenue..(ES0078)	The Trustees Of Bishopton	05/04/1999	04/04/2009	Holding Over to allow flexibility as WCC may require to expand school	£0	£5,500	£5,500	Awaiting revised less than best consideration protocol / Community Asset transfer policy for members to consider renewal terms
							£0	£39,850	£33,000	
		Community Library								
11	Community Managed Library	BIDFORD ON AVON/CE Primary School / Community Libr, Bramley Way..(ES0196)	Bidford Community Library Ltd	02/04/2012	01/04/2017		£0	£16,500	£0	Community Library Lease, rent reflects commercial use
12	Community Managed Library	BULKINGTON/Community Library, School Road..(EN0198)	Bulkington Community Library CIC	10/02/2012	09/02/2017		£0	£14,750	£0	Community Library Lease, rent reflects commercial use
13	Community Managed Library	DUNCHURCH/Community Managed Library, The Green..(EE0114)	Dunchurch Parish Council	02/04/2012	01/04/2017		£0	£6,600	£0	Community Library Lease, rent reflects commercial use
14	Community Managed Library	KERESLEY/Newland Community Library & Information C, Bennetts Rd North..(EN0207)	Keresley Community Library Limited	08/05/2012	07/05/2017		£0	£5,200	£0	Community Library Lease, rent reflects commercial use
15	Community Managed Library	DORDON/Community Managed Library, Roman Way..(EN0205)	Readers of Roman Way Limited	16/12/2013	15/12/2033	Ability to charge rent on 5 yearly rent reviews	£0	£5,300	£0	Community Library Lease, rent reflects commercial use

	Building Use	Property Description	Tenant Name	Start Date	Lease End Date	Comment on end date	Rent Rec'd	Commercial Use Market Rent	Market Rent reflecting Current Use	Comment re. rent
16	Community Managed Library	WATER ORTON/Community Library & Community Centre, Mickle Meadow..(EN0213)	The Water Orton Library & Comm.Cent	13/04/2012	12/04/2022	Ability to charge rent on 5 yearly rent reviews	£0	£8,400	£0	Community Library Lease, rent reflects commercial use
							£0	£56,750		
		Community Youth Centre								
17	Binley Woods Community Youth Group	BINLEY WOODS/Community Youth Club, c/o Primary School Campus..()	Binley Woods Community Youth Group	02/04/2012	01/04/2017		£0	£2,300	£0	Community Youth Ctr. transfer
18	Henley in Arden Youth & Community Centre	HENLEY-IN-ARDEN/Community Youth Centre, Henley High School..(ES0122)	Henley in Arden War Memorial Trust	02/04/2012	01/04/2017		£0	£5,600	£0	Community Youth Ctr. transfer
19	Former Youth Centre	RUGBY/Hill Street Community Youth Centre, Hill Street..(EE0126)	Hill St. Youth & Comm. Centre Assoc	02/04/2012	01/04/2022		£0	£16,250	£0	Community Youth Ctr. transfer
20	Part of Youth & Community Centre	NUNEATON/Hatters Space Community Centre, Hatters Space..(EN0189)	Spurgeons	01/04/2011	31/03/2012	Part of Children's Ctr tender lease to provider by 1.9.2015	£0	£5,000	£0	Community Youth Ctr. transfer
21	Youth Centre Building	KENILWORTH/Youth & Community Centre, Abbey Car Park..(EC0259)	The Kenilworth Centre	01/04/2014	01/04/2017		£0	£37,250	£0	Community Youth Ctr. transfer
22	Warwick Youth Centre	WARWICK/Youth & Community Ctr., Coten End	Warwick Space	tbc	1 month's notice	Lease yet to be completed, Occupation commenced	£0	£13,750	£0	Community Youth Ctr. transfer
23	Wembrook Community Youth Centre	NUNEATON/Wembrook Community Youth Centre, Raveloe Drive..(EN0187)	Wembrook Community Centre Limited	02/04/2012	01/04/2022		£0	£6,200	£0	Community Youth Ctr. transfer
							£0	£86,350	£0	
		Development Potential								
24	Surplus P/Fields,Dunchurch Ce Middle School	DUNCHURCH/Boughton C. of E. (V.A.) Junior School, Dew Close..(EE0013)	Dunchurch Parish Council	01/10/1988	30/09/1990	Holding over for flexibility	£0	£600	£250	Excess land adjacent to school. PC maintain. Could lease for grazing - retain for development potential
25	Playing field land off Anderson Avenue	RUGBY/Rokeby Primary School, Anderson Avenue..(EE0061)	Rugby Borough Council	16/03/2000	15/03/2005	Holding over for flexibility	£0	£4,000	£1,000	Excess land adjacent to school. PC maintain. Could lease for grazing- retain for development potential
							£0	£4,600	£1,250	
		Nursery (limited alternative provsion)								
26	Nursery	HURLEY/Primary School, Heanley Lane..(EN0084)	Trustees of Hurley Nursery	01/07/2005	30/06/2010	Terms for new lease under negotiation	£0	£4,140	£4,000	Grant in Kind by Early Years due to lack of local provision
27	Clifton Upon Dunsmore C.E. Primary School	CLIFTON UPON DUNSMORE/C. of E. Primary School, Station Road..(EE0012)	The Trustees Of The Clifton	17/09/1984	6 month's notice	Continuing Licence terminable on 6 mths notice. No end date	£0	£1,900	£1,900	School and Education & Learning supporting the provision. Await revised protocols
28	Long Lawford - Former Branch Library	LONG LAW FORD/Primary School, Holbrook Road..(EE0020)	The Trustees Of The Long	01/02/1989	6 month's notice	Continuing Licence terminable on 6 mths notice. No end date	£0	£3,900	£3,900	School and Education & Learning supporting the provision. Await revised protocols
29	Warton Nursery	WARTON/Nursery Unit, Maypole Road..(EN0267)	The Trustees Of The Warton	01/09/1984	6 month's notice	Continuing Licence terminable on 6 mths notice. No end date	£0	£4,450	£4,000	School and Education & Learning supporting the provision. Await revised protocols
							£0	£14,390	£13,800	
		Service Tenancy Highways								
30	Highways Maintenance Services	COLESHILL/Motorway/Divisional Highways Depot, Coleshill Heath Road..(CB0191/A)	Balfour Beatty Group Ltd	04/07/2012	04/05/2016	Linked to service contract peppercorn rent fixed until lease end	£0	£36,000	£30,000	Service related tenancy
31	Highways Maintenance Services	DUNCHURCH/Highways Sub-Depot, Southam Road..(CB0148)	Balfour Beatty Group Ltd	03/07/2012	04/05/2016	Linked to service contract peppercorn rent fixed until lease end	£0	£31,000	£27,000	Service related tenancy
32	Highways Maintenance Services	HENLEY-IN-ARDEN/Highways Sub-Depot, Buckley Green Lane..(CB0147)	Balfour Beatty Group Ltd	04/07/2012	04/05/2016	Linked to service contract peppercorn rent fixed until lease end	£0	£13,250	£11,000	Service related tenancy
33	Highways Maintenance Services	SHIPSTON-ON-STOUR/Highways Sub-Depot, Brailes Road..(CB0124)	Balfour Beatty Group Ltd	03/07/2012	04/05/2016	Linked to service contract peppercorn rent fixed until lease end	£0	£11,000	£7,500	Service related tenancy
34	Highways Maintenance Services	WELLESBOURNE/Divisional Highways Depot, Loxley Road..(CB0131)	Balfour Beatty Group Ltd	03/07/2012	04/05/2016	Linked to service contract peppercorn rent fixed until lease end	£0	£25,000	£20,000	Service related tenancy
35	Highways Maintenance Contract 2004	WARWICK/Budbrooke Highways Depot, Old Budbrooke Road..(CB0795)	Balfour Beatty Group Ltd	04/07/2012	04/05/2016	Linked to service contract peppercorn rent fixed until lease end	£0	£7,700	£5,000	Service related tenancy

	Building Use	Property Description	Tenant Name	Start Date	Lease End Date	Comment on end date	Rent Rec'd	Commercial Use Market Rent	Market Rent reflecting Current Use	Comment re. rent
36	Highways Maintenance Services	WARWICK/Budbrooke Office (Balfour Beatty), Old Budbrooke Road..(FB/L5)	Balfour Beatty Living Places	30/07/2013	04/05/2020	Linked to service contract peppercorn rent fixed until lease end	£0	£19,250	£19,250	Service related tenancy
							£0	£143,200	£119,750	
		Service Tenancy Group Homes								
37	Group Home	SNITTERFIELD/Four Gables (Group Home), Ingon Lane..()	People in Action	01/04/2010	01/04/2012	Discussions with People Group to be concluded prior to grant of new leases	£0	£20,370	£20,370	Service related tenancy
38	Group Home	GAYDON/Barnfield (Group Home), Church Lane..()	People in Action	01/04/2010	01/04/2012	Discussions with People Group to be concluded prior to grant of new leases	£0	£20,370	£20,370	Service related tenancy
39	Group Home	LEAMINGTON SPA/4 Milverton Terrace (Group Home), 4 Milverton Terrace..()	People in Action	01/04/2010	01/04/2012	Discussions with People Group to be concluded prior to grant of new leases	£0	£35,475	£35,475	Service related tenancy
40	Residential home for people with learning difficulties	STRATFORD-UPON-AVON/145-147 Masons Road (Group Home), 145-147 Masons R..()	Turning Point Ltd	01/04/2010	31/03/2012	Discussions with People Group to be concluded prior to grant of new leases	£0	£12,075	£12,075	Service related tenancy
41	Residential home for people with learning difficulties	STRATFORD-UPON-AVON/7 Manor Road/1 Beech Close (Group Home), 7 Manor R..()	Turning Point Ltd	01/04/2010	31/03/2012	Discussions with People Group to be concluded prior to grant of new leases	£0	£18,113	£18,113	Service related tenancy
42	Residential home for people with learning difficulties	LEAMINGTON SPA/14 Marloes Walk (Group Home), 14, Marloes Walk..()	Turning Point Ltd	01/04/2010	31/03/2012	Discussions with People Group to be concluded prior to grant of new leases	£0	£30,975	£30,975	Service related tenancy
43	Residential home for people with learning difficulties	LEAMINGTON SPA/52 Russell Terrace (Group Home), 52 Russell Terrace..()	Turning Point Ltd	01/04/2010	31/03/2012	Discussions with People Group to be concluded prior to grant of new leases	£0	£21,500	£21,500	Service related tenancy
44	Residential home for people with learning difficulties	LEAMINGTON SPA/26 Willes Road (Group Home), 26 Willes Road..()	Turning Point Ltd	01/04/2010	31/03/2012	Discussions with People Group to be concluded prior to grant of new leases	£0	£23,381	£23,381	Service related tenancy
							£0	£182,259	£182,259	
		Total All					£4,000	£637,199	£443,059	