

ABERDEEN CITY COUNCIL

COMMITTEE	Finance and Resources
DATE	29 September 2011
DIRECTOR	Gordon McIntosh
TITLE OF REPORT	PAMP – Surplus Property Procedure
REPORT NUMBER:	EPI/11/248

1. PURPOSE OF REPORT

The following report is intended to advise Members of problems encountered in the current processes with the sale of surplus properties, as identified by operational staff and Internal Audit. The Report aims to re-enforce the role of the Corporate Asset Group in managing such properties whilst identifying solutions to the problems identified. Finally the Report seeks to have a revised procedure approved which clearly identifies responsibilities for each part of the process in a clear and transparent manner.

2. RECOMMENDATION

It is recommended that the Committee approve the Surplus Property Procedure and instruct the Head of Asset Management and Operations to oversee its implementation at the earliest opportunity.

3. FINANCIAL IMPLICATIONS

The main aspects of the Report relate to procedural items and, as such, there are no immediate Capital or Revenue implications. This said, a procedure which reduces the time taken to identify surplus property, and in turn realise its value, will create both capital and revenue savings. The key financial decision, to accept an offer for a property, will still (outwith delegated levels) require the consent of the Finance and Resources Committee.

4. OTHER IMPLICATIONS

There are no other identified implications outwith those highlighted in the report.

5. BACKGROUND/MAIN ISSUES

Background

The Internal Audit Report on Capital Investment (March 2011) identified a number of recommendations to improve the service. Amongst the recommendations were the following:-

Vacant Properties

Findings – We identified lengthy periods of time in declaring two properties surplus to requirements after they had been vacated.

Specific Risk – Failure to achieve timely reductions in revenue expenditure and receive capital receipts promptly.

Risk rating – High

Recommendations – A target Timescale for declaring properties surplus after vacating should be established. The target should be based on the tasks required prior to any decision on future usage.

Progress made in declaring a property surplus should be submitted to each CAG (Corporate Asset Group) meeting with explanations provided where target timescales are not met.

Management Response: Agreed

Responsibility: Head of Asset Management and Operations

Implementation Date: 30 April 2011.

The initial recommendations in relation to properties being reported to the CAG has been established.

The recommendation along with a general frustration amongst officers in relation to the time taken to realise receipts from buildings has, however, led officers to look at the entire surplus property and disposal procedures with a view to identifying the parts of the process where avoidable delays are being encountered.

In recent months further risks in relation to vacant properties have been exacerbated by what appears to be targeted theft / asset stripping of metals and other building materials from vacant Council and private sector properties. Whilst not eliminating the problem, a more streamlined procedure reducing the time properties are vacant reduces this risk.

Blockages

Service declaring property surplus

For a number of reasons there can be significant delays between a Service vacating a property and the property being formally declared surplus. This can include a small part of a property remaining

operational, the property being 'mothballed', the surplus procedure being ignored or the property being held for a long term strategic aim (effectively land/ building banking).

Within the existing procedures, Asset Management do not commit any time or resource until buildings are formally declared surplus, as, in a number of instances, significant abortive works have been undertaken.

Committee Reporting

Currently a property requires to be reported to Committee on four separate occasions between being vacated and a preferred bidder being selected. These are:-

1. Service Committee – Property declared surplus to service
2. F+R - Service Committee Report is passed to F+R in same cycle passed to Asset Management to circulate to other Services and report back with recommendations.
3. F+R – Asset Management report on outcome of circulation to Services, public sector property group and suggestions on next steps.
4. F+R – Asset Management Report on offers received at closing dates.

In general terms, reports have to be provided 6 weeks in advance of the Committee meeting and it may take up to two weeks to consider the issue, draft a report and circulate to officers (say 2 months). Accordingly the time added to the process with committee reports, assuming actions fall neatly within the Committee schedule is about 7 months.

Efforts are made to merge Reports 2 and 3 where possible and when there is advanced notification from the Service.

In addition, in recent cycles, draft reports have been circulated at stage 4, prior to closing dates with the final recommendations being added prior to Reports being finalised after the pre-agenda meeting (a number of reports have followed this pattern in this cycle). This allows a closing date to be held closer to the actual Committee, reducing the time a potential purchaser has to wait on a decision. This can, however, only be considered with the more straightforward transactions where clean uncomplicated efforts are envisaged.

Marketing Period

The length of marketing period is dictated in most instances by the Committee cycle, market conditions and the type of property. There is limited scope to reduce marketing periods and still be comfortable in achieving best value.

Property Transaction Protocol (PTP)

The PTP was introduced in 2009 in response to a recommendation made within an Audit Scotland Report, seeking 'sign off' from the Section 75 officers at various stages in the sales process. PTP's are separate customised forms which, depending on the project, would be prepared at the following stages:-

1. Authority to discuss a Council owned property with a 3rd party. This has until restructuring also created a report to the F+R Committee. (Within the Council's Delegated Powers the Head of Asset Management has authority to discuss all Council land with 3rd parties).
2. A PTP2 will be completed and signed by the section 75 officers in advance of any Report on the acquisition or disposal of land going to Committee. This is in addition to the Section 75 officers being consulted on the report. The time taken to prepare these forms and circulate for signature adds an administrative burden further complicated when efforts are made to reduce the time between closing dates and Committees.
3. A PTP3 is completed and signed off by the section 75 officers post Committee to sit alongside the formal instruction to legal to conclude any transaction. The time taken to have these signed can vary between 2 to 3 days and 3 to 4 weeks depending on circumstances, creating a delay in conclusion of transactions.

The PTP system is envisaged as ensuring that the statutory officers are involved in and aware of property acquisitions and disposals and Committee instructions are implemented. They merely advise that procedures have been followed. Any view on best value does however lie with an appropriately qualified valuer, currently either the General Manager – Asset Manager or the Property Estates Manager.

Legal Timeframe/ Planning

The timescale to conclude transactions are generally longer than officers would like. The conclusion of any transaction includes not only prioritisation within the Council's Legal team but co-operation and urgency from solicitors acting for purchasers. Officers also suspect that many purchasers deliberately delay conclusion for cash-flow/ funding reasons. Within the current procedure, it is morally difficult for the Council to get heavy-handed on timescales at the early stage of transactions when the purchasers solicitor may have waited up to 8 weeks from closing date for a decision.

In many transactions the offer providing best value to the Council is one where suspensive conditions in relation to planning are contained within offers. This generally leads to a delay of between 8 and 12

months depending on the complexity and issues with the site. A timetable is built into any qualified acceptance.

Revised Procedures/ Solutions

The main focus in the proposed revised procedures is to make discussion around the vacating of property and its future use a key feature of the Corporate Asset Group (CAG). The remit and role of the CAG is attached as appendix 1

Service declaring property surplus

The responsibility for all vacant property within each service will lie with the Services Representative (normally one of the Heads of Service) on the CAG. They will report on each property to be vacated to the CAG at the next available meeting, in advance of closure. Within the Asset Management Team the UNIFORM database allows the easy creation of a vacant/ surplus property report which will be issued to each CAG to discuss the status and progress of each property. This will form the basis of a Report to each Finance and Resources Committee where the status of each property will be made clear to elected members.

For the purposes of the Vacant Property Report it is considered that a property will be vacant when the main operational use of the property has ceased. If ancillary uses remain it will be for the CAG to determine future use. CAG will also be authorised to instruct the Estates Team to take forward disposals plans for properties, who in turn will instruct the Legal Team as required.

Committee Reporting

The basis of the proposed approach is that the status of each vacant property is presented to each cycle of the Finance and Resources Committee. Within this all encompassing report key stages in the process will be brought to the attention of the F+R Committee such as, the property being surplus to operational requirements, property being formally marketed. These decisions will have been scrutinised in advance by the CAG.

Consideration has been given to whether final decisions on sale can be delegated to officers, assuming market value is achieved. This could significantly shorten the period between offers being received, a preferred bidder being notified and legal instructed. A view has been taken that the decision on who to sell a property to and at what price should rest with elected members albeit with a clear recommendation from officers.

The other potential time delay relates to Services and Service Committees declaring assets surplus. It is considered all assets are a Corporate resource and accordingly once the building is vacated it

should pass from the Service to the CAG without a need for the Service Committee approval. This would require a change to Standing Orders. Rather than change Standing Orders the proposed solution depends on how the asset comes to be surplus:-

- If property is declared surplus as part of the Service Asset Management Plan (SAMP) do not require to be declared surplus again by the Service Committee .
- Where a property is closed and not part of the SAMP, any Committee Report in relation to this should automatically declare the property surplus unless the Service has an alternative use and budget for that use.
- Where no Committee Report is required to vacate the premises the service will have to demonstrated to the CAG that they have an alternative budget and use, otherwise a Report will be presented to the next Service and F + R Committee declaring the property surplus.

Marketing Period

Whilst properties are being marketed ongoing discussions take place between officers and our marketing agents with regard to appropriate marketing periods. These vary depending on type of property/ level of market activity/ complexity of sale. Closing dates will be continue to be set only when it is felt 'best value' can be achieved.

Property Transaction Protocol

The property transaction protocol has in practice created time delays in key stages of the process, mainly of an administrative nature. A trial has been undertaken in trying to merge PTP sign off with other instruction forms, to avoid duplication, however whilst reducing the administration it is still deemed to unnecessary add time to the sale process.

It is proposed that the PTP process is abandoned and replaced with the following measures:-

PTP1 – process abandoned altogether as without prejudice discussion over land lie with the delegated powers of the Head of Asset Management and Operations.

PTP2 – Rather than a separate sign off being in place statutory officers are asked to sign a copy of the final Committee Report to evidence that they are satisfied with the recommendations (they have always been a consultee).

PTP3 – If the Committee approves recommendations in full, without any amendment or alteration no further sign off is required. If recommendations change the Instruction to legal (Property Transaction) should be countersigned by the Statutory Officers.

Legal Timeframe/ Planning

By quickening other elements of the timeframe it will be easier for Officers to push purchasers into acting quicker when instructions are in place.

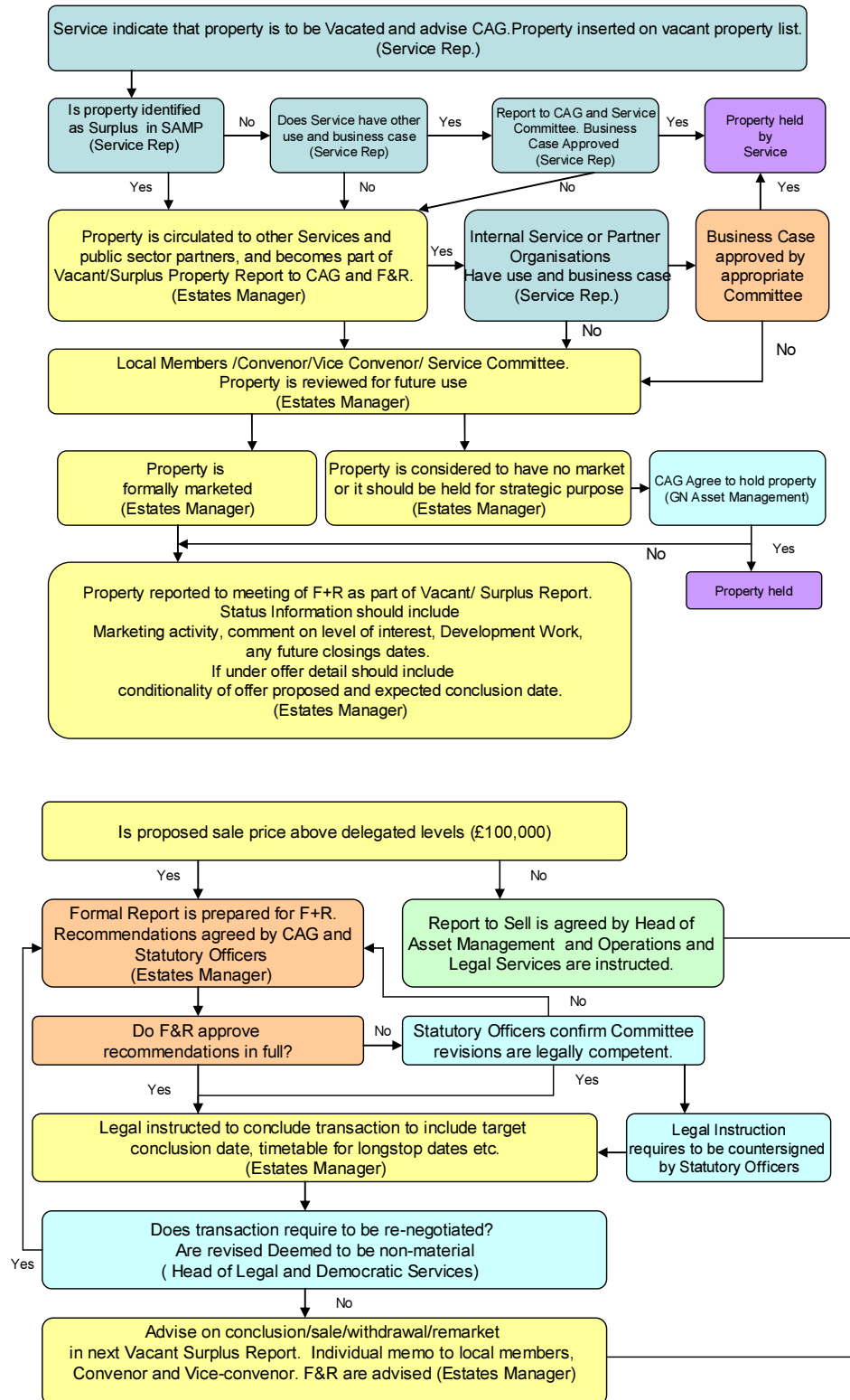
A revised system of case allocation is being agreed between Asset Management and Legal and Democratic Service, which will involve a designated legal case officer being appointed earlier (prior to marketing rather than after Committee decisions) which will allow earlier dialogue with successful bidders. A clear agreement on the level of service and associated timescales is also being discussed.

Asset Management Officers also accept that in some instances it is in the Council's best interests to withdraw from potential sales and either re-market properties, or enter dialogue with unsuccessful bidders rather than spend significant time in legal discussions with preferred bidders.

In many instances offers for sites are made subject to planning for an enhanced or alternative use. It is often in the Council's best interest to accept these offers in the knowledge that this may extend the time taken deliver a receipt by up to 12 months. In some instances sites are sold with planning briefs to assist developers and enable matters to progress quicker post closing dates. Consideration has been given to the Council applying for planning for say a residential use in advance of marketing. This however incurs additional costs and in many ways relies on the Council second guessing the needs of a developer. It is proposed that planning strategy continues to be considered on a case by case basis. Any offers subject to planning should have an agreed timescale for key actions and a missive being concluded.

Taking the above factors into account the following revised procedure is proposed.

Proposed Surplus Property Procedure



Additional Information

SAMP – Service Asset Management Plan
 CAG – Corporate Asset Group
 NEPG – North East Property Group
 F&R – Finance and Resources Committee

6. IMPACT

Corporate – Within the single Outcome Agreement there is a requirement for the Council to make the best use of all resources a streamline surplus property and sales procedure helps achieve this.

Public – Any issue regarding the sale of Council Assets is likely to be considered newsworthy given the history surrounding land sales in both Aberdeen and other Local Authorities.


It is not considered that an Equality and Human Rights Impact Assessment is required for this report.


7. BACKGROUND PAPERS

Appendix - Corporate Asset Group – terms of reference

8. REPORT AUTHOR DETAILS

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