

EXECUTIVE

16th November 2023

Report Title	Corporate Property Leasehold Policy
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Lead Member	Cllr Matthew Binley – Executive Member for Highways, Travel & Assets

Key Decision	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for call-in by Scrutiny?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there public sector equality duty implications?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information (whether in appendices or not)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Applicable paragraph number/s for exemption from publication under Schedule 12A Local Government Act 1972	

List of Appendices

Appendix A – Corporate Property Leasehold Policy

1. Purpose of Report

- 1.1 The Chief Responsible Officer, confirmed as the Executive Director, Place and Economy, is responsible for ensuring that procedures are put in place detailing arrangements for the management of property and land assets owned by the Council.
- 1.2 This includes producing an asset strategy, a policy and processes for governance purposes and ensuring the Council maintains accurate records of its land holdings.
- 1.3 This report introduces the Corporate Property Leasehold Policy; a policy and process that supports the constitutional delegations by providing a co-ordinated approach to internal review and approval of leasehold terms.
- 1.4 The Corporate Property Leasehold Policy forms part of a suite of asset management policies, forming the Council's asset strategy.

2. Executive Summary

- 2.1 The Council holds an extensive portfolio of land and buildings which it leases to third parties and itself leases from third parties.
- 2.2 This portfolio is held for a variety of different functions, including service delivery, community purposes, and investment. It is vital that the portfolio is managed to best effect in supporting the Council's strategic objectives, whilst satisfying best consideration duties.
- 2.3 Following an Asset Management audit, the following action was noted by the auditor as a means of managing such risk associated with leasehold transactions: *To protect the Council and support the Service Areas, the policies should outline how the Asset Management Team need to be involved in every potential agreement made in respect of leased assets or other tenancy agreements, for example, mandatory attendance of the Service Areas to an Asset Management working group, prior to these agreements being signed off by the delegation as outlined in the Constitution.*
- 2.4 The Corporate Property Leasehold Policy and process presented to Executive in **Appendix A** supports delivery of this recommendation by establishing a clear process to support existing governance arrangements relating to leasehold transactions. It also confirms that all leases are negotiated through the Asset Management team, who will provide technical advice, to support informed decision making. This will ensure all lease negotiations comply with statutory requirements, reflect best consideration, and are on terms that deliver the Council's Corporate Plan.

3. Recommendations

- 3.1 It is recommended that the Executive approve the Corporate Property Leasehold Policy at **Appendix A** for adoption.
- 3.2 Reasons for Recommendations:
- i) The Council has fiduciary responsibilities to ensure all leasehold agreements it enters represent value for money. The Corporate Property Leasehold Policy supports this outcome.
 - ii) Progressing leasehold transactions in a co-ordinated way will contribute to the Corporate Plan and the commitment to be carbon neutral by 2030.
 - iii) The Corporate Property Leasehold Policy supports a timely and professional process, which will help manage costs and assist the Council to achieve income targets from its commercial estate.
 - iv) The Policy supports centralised current record keeping; a requirement of the constitution.

- 3.3 Alternative Options Considered: The Council could choose not to adopt a co-ordinated leasehold policy, but this would lead to uncertainty and increased risks of agreements being entered into without full consideration.

4. Report Background

- 4.1 The way the Council manages its land/property assets can have a significant impact both on the quality of services delivered to the public and the local environment.
- 4.2 Effective asset management is essential in bringing 'agility' to land and property assets so that the delivery of the Council's goals and objectives are realised in a sustainable manner, at the right time and on budget.
- 4.3 The Council holds detailed information about its property portfolio on its asset register, which includes leasehold information. This information is required to:
- Provide data for the annual publication of the property and land register as required in the Transparency Code.
 - Provide accurate information to the Council's valuers for annual review as part of the financial code for valuing the Council's estate.
 - For the asset management team to review and analyse the portfolio for alternative uses and make recommendations to the Council.

5. Issues and Choices

- 5.1 The Council is required to have detailed arrangements in place for property and land management. The constitution delegates broad authority in relation to entering into leasehold arrangements. Following an internal audit, it was recommended that in order to manage the risks associated with leasing property to third parties or taking on leasehold interests, suitable policy processes are implemented to ensure a consistent process is employed for all transactions.
- 5.2 Therefore, the process detailed in this policy aims to support existing governance arrangements, but also ensure that all leases are negotiated through the Asset Management team, who will provide technical advice, to support informed decision making. This will ensure all lease negotiations comply with statutory requirements, reflect best consideration, and are on terms that deliver the Council's Corporate Plan
- 5.3 **Appendix A** of the policy document provides greater detail on the transactions in scope of the policy and decision-making process.

6. Next Steps

- 6.1 Implement the Corporate Property Leasehold Policy, including engagement with service areas to ensure timely engagement on relevant transactions.

7. Implications (including financial implications)

7.1. Resources, Financial and Transformation

- 7.1.1 Leasehold agreements can have significant financial implications, including rental payments, insurance liabilities, service charge management, and dilapidation liabilities arising at the end of the lease.
- 7.1.2 Given the term that leases run for, and the financial commitment lease contracts can place on the Council, it is vital that any agreements entered into have a full understanding of the liability and financial implications before being agreed.
- 7.1.3 The Council has a significant leasehold investment portfolio, bringing in some £13.3m in rental income each year. This policy supports its timely and effective management.

7.2. Legal and Governance

- 7.2.1. Legislation regulating to leasehold transactions requires a Council to obtain best consideration that can reasonably be obtainable.
- 7.2.2. The Council's financial procedure rules require leasehold opportunities to be marketed on the open market unless there are exceptional circumstance.

7.3. Relevant Policies and Plans

- 7.3.1. These proposals will assist the Council in delivery of its fiduciary responsibilities and assist the Council in meeting its commitments in the Corporate Plan, in particular providing Modern Public Services that are value for money.

7.4. Risk

- 7.4.1. The recommendations above ensure the Council mitigates the risks associated with leasehold transactions.
- 7.4.2. A marketing campaign for all relevant sites provides transparency and gives opportunity for the wider market to tender. This mitigates the risks of challenge.

7.5. Consultation

- 7.5.1. The policy outlines consultation undertaken with the relevant Executive Member on progress and completion of lettings on a periodic basis, with such information made available to Ward Members as required, noting commercially sensitive information cannot be released.
- 7.5.2 Where a leasehold transaction may cause significant community impact, views of Ward Councillors can be sought in order to support the Council's objectives for the property or land.

7.6. Consideration by Executive Advisory Panel

7.6.1. The meeting of the Prosperous Communities Executive Advisory Panel on 11th May 2023 considered leasehold risks and considerations for the Council's estate, informing the development of the policy.

7.7. Consideration by Scrutiny

7.7.1. This report is eligible for call in by the Place and Environment Scrutiny Committee as part of their work programme.

7.7.2. The Asset Rationalisation and Use Scrutiny Panel considered the draft policy, and their feedback has been incorporated into the policy.

7.8. Equality Implications

7.8.1. An Equality Screening Assessment has been completed and confirms there are no negative impacts on one or more equality groups.

7.9. Climate and Environment Impact

7.9.3. As part of the Asset review process, consideration as to the sustainability of the asset will be included, in particular whether retaining the asset can support the Council's climate change objectives and carbon reduction target.

7.9.3. Leasehold transactions are required to achieve minimum levels of energy performance, with opportunities to invest in energy saving technology as part of maintaining the asset.

7.10. Community Impact

7.10.1. This proposal has no direct community impact. The proposed policy works in tandem with the Council's Community Asset Transfer policy, which seeks to provide opportunities for community groups to forward expressions of interest in Council assets.

7.11. Crime and Disorder Impact

7.11.1. There are no direct crime and disorder impacts arising from this report.

8. Background Papers

8.1. There are no background papers to this report.