MALDON DISTRICT COUNCIL

ASSETS DISPOSAL POLICY

Document Control Sheet

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Prepared by	**Frank Britt**
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Introduction

The Council owns a significant amount of land and property to support service delivery, community wellbeing, regeneration and corporate priorities. These assets need to be carefully managed in order to ensure that the Council's objectives are realised and that value for money is achieved from their use. This Policy sets out how Maldon District Council will identify, appraise and dispose of land and/or property in a lawful, transparent, and value-for-money way, whilst enabling community organisations to take on assets where that will deliver greater public benefit. This Policy is intended to replace previous practices and consolidate the Council's asset disposal strategy, criteria and governance into a single, clear framework.

Strategic Objectives

The Policy is guided by the following strategic objectives:

- To secure value
- To support the Council's Corporate objectives by enhancing housing, regeneration, service transformation, housing, etc
- To minimise costs through active reduction of liabilities
- To encourage local benefit/community use
- To enhance transparency over and clear oversight of disposals in view of Local Government Reorganisation.

Legal and Regulatory Principles

In disposing of its assets the Council must:

- Secure "best consideration" (or justify undervalue under the General Disposal Consent) supported by appropriate professional valuation advice.
- Use Community Asset Transfers ("CATs") where community ownership/control of assets (e.g., sports pitches**,** scout huts, community halls) will likely create sustained public value and help local groups grow and thrive**.**
- Comply with the applicable duties for Open Space land and maintain robust, transparent decision-making records.
- Manage legal/commercial risks, including consideration of title constraints and restrictions**,** overage/clawback provisions**,** and potential Subsidy/State Aid issues.

Local Government Reorganisation (LGR)

The Council anticipates that LGR could affect asset ownership, governance and delegations. This document will be reviewed and updated on any reorganisation to reflect new statutory structures and responsibilities, including transition protocols for "in-flight" disposals and CATs.

Scope

The Policy applies to:

Freehold disposals of land and buildings
Grant of long leases (over 14 years)
Grant of leases where annual rent is over £25,000
Development agreements involving land transfers

The Constitution provides delegated authority for Officers to make decisions in relation to the following:

- Leases under 14 years in length with an annual rent below £25,000
- Permanent grants of rights or future rights over land (such as easements and options)
- Assignments of leases. The principals of this policy will apply in these circumstances.

This Policy does not replace:

The Council's Constitution
Financial Regulations
Scheme of Delegation
Procurement rules
Planning legislation.

Options for Disposal

1. **Open market** (private treaty, auction, or tender) to achieve best consideration where appropriate;
2. **Disposals to** S**pecial Purchasers** where this demonstrably secures best overall terms.
3. **Community Asset Transfer** where a community outcome justifies **undervalue** (within the **£2m** threshold) and delivers measurable benefit.

The Council will not generally not consider disposal of an asset which is required to ensure the delivery of Council Services.

1. Open Market Disposal

   The decision to dispose on the open market will be taken in line with the Scheme of Delegation. For freehold disposals and leasehold interests over 7 years, the properties will be advertised and bids will be invited in the form of sealed bids by an agreed date or through open auction.

   Whenever possible the Council will advertise for the disposal by means of advert placed in an appropriate media and/or through the appointed agents.

   Where appropriate, recommendations will be sought on appropriate terms, methods of sale and valuations from an independent agent or valuer.

   So far as possible the Council will seek to include suitable overage, clawback provisions and restrictive covenants on title to ensure that the Council benefits from potential future uplifts in value.

2. Disposals to Special Purchasers

   The Council may dispose to purchasers to whom a particular asset has special value because of advantages arising from its ownership that would not be available to general purchasers in the open market. Such “Special Purchasers” may include adjoining owners and parties with an interest in the property where a disposal will release additional, or synergistic (marriage) value, to be shared with the Council.

   There will be no obligation upon the Council to sell the asset at below market value. Such off market disposals will be subject to an independent valuation to demonstrate that the offer received are in line with, or better than, best value.

   Existing Tenants may be included in this category. Existing Tenants, where no issues have been raised during the term of their existing lease who are considered “good tenants” will be considered a special purchaser. The rental charged for these tenants will usually increase as a minimum by a relevant price index to ensure it reflects inflationary pressure.

   The Council will again seek to include suitable overage, clawback provisions and restrictive covenants on title to ensure that the Council benefits from potential future uplifts in value.

3. <u>Community Asset Transfer (“CAT”) Approach</u>

   There are five key areas that any organisation will need to demonstrate to the Council before a CAT can be considered

- How the community and local people will benefit from the transfer including social value
- That there is community support for the transfer, and

- That they have sufficient financial sustainability and expertise to cover repairs, maintenance and on-going operational costs.
- That the transfer offers protection of the Authorities statutory and fiduciary responsibilities,
- Can demonstrate suitable management ability.

Additionally the Council will have regard to the following guidance that will inform any application:

- Eligibility & preferred recipients**:** Incorporated community organisations, sports clubs, charities, or parish/town councils with suitable governance and financial capacity.
- Business case: CAT business case requirements will be proportionate to risk/scale:
- Need and outcomes: clear economic/social/environmental benefits linked to local priorities.
- Viability: forward plan and sustainability (income, maintenance of the asset, compliance).
- Capacity and governance: skills, track record, safeguarding, insurance.
- Asset plan: repairs, statutory compliance, and investment proposals.
- Heads of terms: tenure, rent/purchase price, user access, KPIs, and monitoring. (These reflect common local authority CAT frameworks.)

Governance Roles & Responsibilities

- **Members (Prior engagement with Senior Leadership Team (SLT) & Strategic Assets Working Group (SAWG) ahead of strategy resources committee and/or full council)**: Approve disposals and CATs above delegated thresholds, having considered legal, financial, valuation and community impacts.
- **Section 151 Officer / Finance**: Ensure value for money and proper accounting, including impacts of undervalue.
- **Monitoring Officer / Legal**: Ensure compliance with legislation and advise on conditions such as overage, restrictive covenants, reversion, and clawback
- **Asset Management Team**: Initial assessment of all applications to ensure they meet the required criteria and the rejection of any that do not. Commission RICS-compliant valuation advice and lead transactions.

Disposal Process

1. **Initiation**: Asset identified as surplus, or the Council is approached by an external organisation, community group or other applicant requesting consideration for a Community Asset Transfer or purchase. Applicants will be required to complete the Council's standard proforma so that the request can be assessed consistently and proportionately. That proforma will prescribe the criteria by which the application will be assessed and should those criteria not be met, the application will be declined.

2. **Pre-disposal checks**: Title, covenants/restrictions, planning, existing tenancies
3. **Options appraisal**: Market disposal vs CAT vs retention and refurbishment and/or alternative use by the Council (Asset Management Team – summary to SLT, ahead of SAWG)
4. **Independent Valuation**: Professional valuation and financial appraisal
5. **Engagement**: Where CAT/open space applies, run proportionate consultation/advertising and capture responses.
6. **Decision**: Member approval
7. **Legal completion**: Appropriate conditions, including clawback, overage, reversionary provisions and restrictive covenants, will be included where required, together with a post-completion monitoring plan. The Council's legal costs and any other reasonable professional costs incurred in progressing the disposal will be payable by the applicant or purchaser, unless otherwise agreed in writing.
8. **Asset Register Update**: Key risks will be noted and logged in the asset risk register. These include undervaluation, legal challenge and failure to achieve strategic goals.
9. MDC General Update: Other departments within MDC to be formally advised of the disposal ie Finance, Revs & Bens,
10. The transferred asset is to be removed from any maintenance contract or schedule unless an agreement is reached with the new owner to continue.

Restrictions on disposal: The Council will not normally progress a disposal application in the following circumstances:

- The asset is required for, or remains of use to, the Council for service delivery, operational, strategic, regeneration or other corporate purposes.
- A previous decision has been made in relation to the same or substantially similar disposal request within the preceding six months.
- The property is currently tenanted, the application has been made by a third party rather than the tenant, and there is more than 12 months remaining on the current tenancy, lease or occupation agreement, save in exceptional circumstances.
- The disposal application from third parties or CAT does not meet the criteria prescribed above for such disposals.