



Committee: CABINET

Date: TUESDAY, 17 MARCH 2009

Venue: LANCASTER TOWN HALL

Time: 10.00 A.M.

A G E N D A

1. Apologies

2. Minutes

To receive as a correct record the minutes of Cabinet meetings held on Tuesday, 17th February 2009 and Tuesday 3rd March 2009 (previously circulated).

3. Items of Urgent Business Authorised by the Leader

To consider any such items authorised by the Leader and to consider where in the agenda the item(s) are to be considered.

4. Declarations of Interest

To consider any such declarations.

5. Public Speaking

To consider any such requests received in accordance with the approved procedure.

Reports from Overview and Scrutiny

None.

Reports

6. Responding to Worklessness (Pages 1 - 8)

(Cabinet Members with Special Responsibility Councillors Archer and Mace)

Report of the Corporate Director (Regeneration).

7. Community Cohesion (Pages 9 - 18)

(Cabinet Member with Special Responsibility Councillor Gilbert)

Report of the Chief Executive

8. **Luneside East Regeneration Project** (Pages 19 - 25)

(Cabinet Member with Special Responsibility Councillor Mace)

Report of Corporate Director (Regeneration).

9. **Disposal Strategy** (Pages 26 - 46)

(Cabinet Member with Special Responsibility Councillor Archer)

Report of the Corporate Director (Regeneration).

10. **Exclusion of the Press and Public**

Members are asked whether they need to declare any further declarations of interest regarding the exempt reports.

Cabinet is recommended to pass the following recommendation in relation to the following items:-

“That, in accordance with Section 100A(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following item of business, on the grounds that they could involve the possible disclosure of exempt information as defined in paragraph 12 of Schedule 12A of that Act.”

Members are reminded that, whilst the following items have been marked as exempt, it is for the Council itself to decide whether or not to consider each of them in private or in public. In making the decision, Members should consider the relevant paragraph of Schedule 12A of the Local Government Act 1972, and should balance the interests of individuals or the Council itself in having access to information. In considering their discretion Members should also be mindful of the advice of Council Officers.

11. **Lancaster Market** (Pages 47 - 56)

(Cabinet Member with Special Responsibility Councillor Archer)

Report of the Corporate Director (Regeneration).

12. **Employee Establishment - Vacancy Authorisation** (Pages 57 - 60)

Report of the Chief Executive.

(Any vacancy forms received will be sent out to follow)

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors Abbott Bryning (Chairman), Evelyn Archer, Jon Barry, Eileen Blamire, Shirley Burns, Susie Charles, Jane Fletcher, John Gilbert, David Kerr and Roger Mace.

(ii) Queries regarding this Agenda

Please contact Debbie Chambers, Democratic Services, telephone 01524 582057 or email dchambers@lancaster.gov.uk.

(iii) Apologies

Please contact Members' Secretary, telephone 582170, or alternatively email memberservices@lancaster.gov.uk.

MARK CULLINAN,
CHIEF EXECUTIVE,
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Published on 5th March 2009

CABINET

**Responding to Worklessness
17th March 2009**

Report of Corporate Director (Regeneration)

PURPOSE OF REPORT				
To outline, and seek approval for, the City Council's role in supporting employment and skills activities identified in the LDLSP Education, Skills and Opportunities Thematic Group Action Plan as a response to worklessness within the District. Specific approval is sought for a funding bid to the LDLSP for a Worklessness Pilot Project focused on outreach and engagement with hard to reach individuals and groups in the District's most deprived areas.				
Key Decision	X	Non-Key Decision		Referral from Cabinet Member
Date Included in Forward Plan	November 2008 (as Lancaster & Morecambe Worklessness Project).			
This report is public				

RECOMMENDATIONS OF COUNCILLORS ARCHER AND MACE

- (1) That Members endorse the funding bid to the Lancaster District Local Strategic Partnership (LDLSP) for the Lancaster & Morecambe Worklessness Pilot Project, approve its implementation and the updating of the revenue budget if the bid is successful and authorise the Corporate Director (Regeneration) to agree appropriate line management arrangements.
- (2) That Members endorse the Supporting People funding bid already made to Lancashire County Council and, if formally offered, approve the on-going implementation of the vulnerable households activity to complement the Worklessness Pilot Project, and the updating of the revenue budget.
- (3) That Members acknowledge the role of the City Council in employment and skills activities which complement its draft 2009/10 Corporate Plan priority to deliver the Council's actions in the LDLSP's Education, Skills and Opportunities Thematic Group Action Plan.
- (4) That appropriate officer time be committed, within existing staff resources, to support actions included within the LDLSP Education, Skills and Opportunities Thematic Group Action Plan.

1.0 Introduction

- 1.1 The City Council is already playing a lead role in the economic development of the District through its regeneration activities. This is evident through physical developments such as CityLab, The Storey and Port of Heysham Industrial Park. Whilst such developments address a key issue in providing workspace for businesses it is important that they are complemented by a 'soft infrastructure' which enables local residents, and especially those in areas experiencing the highest levels of unemployment, to access employment opportunities and which enables businesses to recruit people with the right skills or to develop their existing workforce. The re-organisation of the Lancaster District Local Strategic Partnership (LDLSP) provided an opportunity to develop employment, skills and worklessness activities by co-ordinating the work of a range of organisations, including Jobcentre Plus, the Learning and Skills Council and local HE and FE institutions, through the Education, Skills and Opportunities (ESO) Thematic Group. As a member of the Thematic Group, the City Council potentially has a key role in facilitating joint working to develop a strategic approach to employment and skills issues within Lancaster District which would be complementary to the Economic Regeneration Programme and which also addresses Lancashire Local Area Agreement targets related to worklessness and skills.
- 1.2 Under the Lancashire Local Area Agreement, one of the targets is to reduce the number of working age people claiming out of work benefits in the worst performing neighbourhoods. In Lancaster District eight such neighbourhoods (lower super output areas) have been identified: two in Harbour ward; two in Poulton, two in Skerton West; one in Heysham North and one in Westgate. Within these neighbourhoods an average of 30% of working age residents were receiving out of work benefits in the year to May 2007 compared to a District-wide figure of 11.3%. However, the District has limited access to funding to address worklessness in these areas and is not, for example, eligible for Working Neighbourhoods Funding. It should also be noted that the proposals outlined in this report will contribute towards achievement of LAA 2008/2011 targets and that they will not impact on the LAA 2006/2009 targets and reward funding.
- 1.3 It is also worth noting that the City Council has an existing team, the Integrated Support Team, working in the West End of Morecambe under the Neighbourhood Task Force which has shown promising results in improving opportunities for residents to access training and employment opportunities. It has also demonstrated the clear need to provide targeted outreach support to those who fall outside mainstream services. Funding for the Team to date has been secured from several sources, including Area Based Grant, English Partnerships and Lancashire County Council's Supporting People programme. This team is currently subject to restructuring proposals which could result in the skills and momentum gained to date being lost. The proposals below include an opportunity to secure funding which would enable some of this activity to be maintained and extended and to provide continuity of employment for some of the existing staff.

2.0 Proposal Details

2.1 *LDLSP Education, Skills and Opportunities Thematic Group Action Plan*

- 2.1.1 The LDLSP Education, Skills and Opportunities Thematic Group Action Plan includes the following activities where the City Council has been identified as taking a lead role:

- Prepare a Local Employment and Skills Plan as a framework for action planning and partner involvement in implementation
- Develop an action plan for employer engagement
- Develop proposals for outreach and engagement with workless groups and individuals, especially in the worst performing neighbourhoods, and link to employment and training opportunities.

The City Council could also have a support role in the following actions:

- Increase graduate opportunities and retention by working with the Economy Thematic Group to identify future high level skills needs
- Develop relevant actions identified in the Lancashire Skills Strategy
- Work with local business to promote work-based training and commission a training needs analysis

2.1.2 To ensure a partnership approach in taking these actions forward, it is proposed to establish an Employment and Skills Work Group which reports directly to the ESO Thematic Group with links to the Economy and Health and Wellbeing Thematic Groups. Again, it is likely that the City Council would need to take the lead in establishing and maintaining this Work Group. This administrative function combined with a major contribution in developing the Employment and Skills Plan and associated action plans would have considerable impact on existing staff time, falling mainly on the Business Development Team in the Economic Development & Tourism Service. Whilst it is felt that this additional workload could be accommodated within the 2009/10 Service Business Plan it would be subject to adjustments to work priorities in the Business Development Team.

2.2 Lancaster & Morecambe Worklessness Pilot Project – funding bid to the LDLSP

2.2.1 One of the key specific actions identified for outreach and engagement in the ESO Thematic Group Action Plan is the proposal for a two year pilot project, the Lancaster & Morecambe Worklessness Pilot Project. Lancaster City Council's Integrated Support Team currently provides intensive support to individuals and families in the West End of Morecambe, especially those affected by property acquisition, to ensure they are able to access mainstream services, including training and employment. Subject to securing funding through a bid to the LDLSP, it is now proposed to extend this service on a pilot basis, through a housing-led approach, to provide information, advice and guidance to the hardest to reach client groups in the LAA target neighbourhoods in Lancaster and Morecambe (see 1.2 above) which tend to be characterised by concentrations of Council housing or private rented sector accommodation. Through close collaboration with City Council Housing colleagues (and other agencies) to identify clients requiring support, the project team will focus on developing opportunities to engage those who are of working age and claiming out of work benefits (Incapacity Benefit, Lone Parent Benefit and Job Seekers Allowance) and who do not currently engage with other interventions, to assist access to in-to-work training and employment/volunteering opportunities. As a pilot, the impact of the project will be evaluated to determine how effective such an approach may be in identifying, engaging and supporting hard to reach groups in the District's most deprived areas and the results disseminated, especially among other Lancashire LAA authorities.

2.2.2 Funding for the pilot needs to be secured. A submission was initially made through the Lancashire Worklessness Programme Board for NWDA/ERDF funding but ERDF eligibility issues mean that this is no longer an appropriate source. Subsequently, a bid is being submitted to the LDLSP Management Group from the LDLSP Education,

Skills and Opportunities Thematic Group (following initial submission of the bid by the City Council's Economic Development & Tourism Service) for funding totalling £198,171 which represents the full project costs for the period April 2009 to March 2011 (see breakdown below). If successful, the funding would enable a team of three officers to be established, with the possibility of maintaining two staff currently working in the Neighbourhood Task Force who are subject to current restructuring proposals. Whilst 100% LDLSP funding would be required to implement the project it is worth noting that £39,797 of additional funding is likely to be secured from Lancashire County Council through the Supporting People Programme for 2009/10 towards complementary activity to support vulnerable households, with the possibility of additional funding over the subsequent two years. However, the ability of the City Council to draw down this funding is largely dependent on the Worklessness Pilot Project proceeding to provide a core delivery team.

2.2.3 The funding bid submitted to the LDLSP is for the full project costs of £198,171. The breakdown of estimated project expenditure is as follows:

	2009/10	2010/11	TOTAL
Employee Costs	87,219	91,225	178,444
Car User Allowances	4,740	4,860	9,600
Accommodation	1,000	1,000	2,000
Printing & Stationery	700	752	1,452
Other Employee Costs	1,300	1,375	2,675
Support Costs	1,000	1,000	2,000
Contingency	1,000	1,000	2,000
Total	96,960	101,211	198,171

2.2.4 If Members endorse the funding bid to the LDLSP and approve the project's implementation if LDLSP funding is secured, there will be a need to identify the most appropriate line management structure for the team. As noted above, the Business Development Team will be taking the lead in a range of actions related to employment and skills through the LDLSP ESO Thematic Group. It is also taking the lead in relation to LAA Economy Theme targets. It would, therefore, appear most appropriate to integrate the Worklessness Pilot Project with this work.

3.0 Details of Consultation

3.1 The development of the Worklessness Pilot Project has been subject to limited consultation with partners and stakeholders. However the principle of this project sits very neatly into the aims and objectives of the West End Masterplan which is a document which has been widely consulted upon.

3.2 The City Council's approach to worklessness through the Education, Skills and Opportunities Thematic Group Action Plan is included in the draft 2009/10 Corporate Plan and will therefore be subject to Corporate Plan consultation procedures.

4.0 Options and Options Analysis (including risk assessment)

4.1 *Lancaster & Morecambe Worklessness Pilot Project*

Option	Advantages	Disadvantages	Risks
1. Withdraw the pilot project proposal/funding bids	None	Opportunity to secure 100% external funding for the project would be lost.	Lancashire LAA 2006/2009 reward targets and funding would be unaffected

		<p>Loss of existing staff would lead to inability to draw down complementary Supporting People Programme funding.</p> <p>Redundancy costs incurred for existing staff.</p>	<p>but there would be increased likelihood that the local contribution towards LAA 2008/2011 targets would not be achieved with possible impact on reward funding</p>
<p>2. Endorse the project funding bid to the LDLSP (and the Supporting People funding bid) and proceed with the pilot project proposal leading to full implementation if funding is secured.</p>	<p>Provides continuity of employment for existing staff in the Integrated Support Team.</p> <p>This would allow the project to work within the priority super output areas, the most deprived wards, to help disadvantaged households gain sustainable long term employment.</p> <p>No requirement for City Council match funding.</p> <p>Contribution to LAA target to reduce worklessness.</p> <p>Sharing of housing-led approach with other authorities.</p>	<p>Sustainability of the project beyond the 2-year pilot phase likely to be dependent on other sources of funding (eg European Social Fund).</p>	<p>Risks associated with project implementation including appointment of staff, achievement of outputs</p>

4.2 City Council approach towards worklessness

Option	Advantages	Disadvantages	Risks
<p>1. Do nothing ie do not take lead in appropriate actions identified in the ESO Thematic Group Action Plan</p>	<p>No impact on staff time and other priorities</p>	<p>ESO Thematic Group Action Plan not fully implemented</p> <p>Failure to achieve draft 2009/10 Corporate Plan priority</p>	<p>Lancashire LAA 2006/2009 reward targets and funding not affected but local contribution towards achieving LAA 2008/2011 reward targets related to worklessness minimised</p>
<p>2. Take active lead in appropriate actions identified in the ESO Thematic Group Action Plan, including establishing Work</p>	<p>Draft 2009/10 Corporate Plan priority addressed</p> <p>Firm base established for development of</p>	<p>Significant staff time potentially required – possibly up to half a full time equivalent post in the short/medium term.</p>	<p>There is a risk that insufficient staff time would be available to support the full range of actions and the Work Group. In this</p>

Group	initiatives to address worklessness through joint working		event administrative support could be required but it may be possible to seek appropriate resources through the LDLSP.
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5.0 Officer Preferred Option (and comments)

- 5.1 Option 2 is the preferred option for the Worklessness Pilot Project as this will enable the City Council to undertake an active role in supporting some of the hardest-to-reach groups and individuals to secure employment and training opportunities, contributing towards efforts to achieve the LAA target to reduce the number of working age people claiming out of work benefits in target areas (although this target may be subject to revision in response to the economic downturn). It would also enable the City Council to maintain its work with vulnerable households with the additional Supporting People funding potentially available from Lancashire County Council.
- 5.2 Option 2 is also the preferred option for the City Council's approach towards worklessness as this will be in accordance with the draft 2009/10 Corporate Plan Key Action 1.3 to deliver the Council's actions in the LDLSP's Education, Skills and Opportunities Thematic Group Action Plan. It will also support local action planning to respond to LAA targets related to worklessness and skills. The development of the Employment and Skills Plan could also provide valuable input to the economic assessment process proposed under the Sub National Review of Economic Development and Regeneration, especially in the context of emerging Government proposals to introduce Work and Skills Plans setting out how local partners can achieve their LAA targets.

6.0 Conclusion

- 6.1 Subject to Cabinet approval, the proposals as outlined provide an opportunity for the City Council to take an active role in efforts to address worklessness by testing a housing-led approach to engage with hard-to-reach residents (subject to LDLSP funding approval) and to take a lead role in the development of employment and skills activities which complement the Economic Regeneration Programme.

RELATIONSHIP TO POLICY FRAMEWORK

The draft 2009/10 Corporate Plan was approved for consultation by Cabinet in January 2009 and included the following under the Corporate Priority to Support Our Local Economy:

Objective 1: Work in partnership to ensure a strategic approach to economic development and regeneration

Key Actions:

1.3 Deliver the Council's actions in the LDLSP's Education, Skills and Opportunities Thematic Group Action Plan

- *Prepare Local Employment and Skills Plan*
- *Develop Employer Engagement Action Plan*
- *Prepare (workless groups and individuals) Outreach and Engagement Action Plans*

The proposals will help deliver the priority in the Lancaster District Sustainable Community Strategy related to Education, Skills and Opportunities to: 'engage NEETS (Not in Education, Employment or Training) young people and those who are workless on a long term basis in developing work related and life skills'.

The proposed pilot project will contribute towards the delivery and implementation of the Council's Housing strategy, and Winning Back Morecambe's West End Masterplan as well as LAA outcomes. Also contributes to the Welfare Reform Bill and Supporting People Strategy.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

The project will make a substantial contribution towards supporting individuals and households back in to employment via outreach and engagement. The project will target households within the priority super output areas, especially those who are both vulnerable and socially excluded, which will contribute towards ensuring social cohesion and sustainable communities. Consequently, the proposals are considered to have positive impacts for Community Safety and Sustainability with neutral impacts for Diversity, Human Rights, Rural Issues and Health & Safety.

FINANCIAL IMPLICATIONS

Lancaster & Morecambe Worklessness Pilot Project

Option 1 Withdraw the pilot project proposal: redundancy and associated notice period costs of £44,400 would be incurred through the inability to retain existing staff. These costs are based on existing contracts.

Option 2 Proceed with the pilot project proposal: subject to LDLSP approval, the project would be fully funded by the LDLSP (Council Tax Second Homes') funding bid of £198,171 over two years. Some recruitment costs could be incurred depending on the need to replace staff who may leave before project start. However, any associated costs would be covered by the existing LDLSP funding bid.

Since reporting to February Cabinet (minute 145 relates) it is now predicted that a final decision on the success of both the LDLSP and Supporting People bids will be known by 31 March 2009. It should be noted further that, should funding not be forthcoming from the LDLSP the Lancashire County Council (Supporting People) funding would also need to be revisited to ensure delivery of any stand alone project is in line with the funder's conditions and does not require additional City Council financial support.

As a result of the above change in timescales, it has been agreed that there would only be a requirement for a 6 month extension of contracts of the existing Worklessness Team (two posts) for now, but that any further continuation of these contracts would still be subject to the outcome of the funding bid(s). (This is different to the assumption made at Cabinet back in January. In effect, it reduces the potential call on the Project Implementation Reserve. If the LDLSP bid is successful, this call would not be needed.)

Should both bids be successful then this would mean that a further post covering activity to support vulnerable households could also be created in addition to the core team comprising

three posts (covered by LDLSP funding).

If the bids were unsuccessful, the City Council will need to serve statutory notice of termination of fixed term contracts for the two existing staff members. Taking into account the staff notice periods there could be a financial cost to the City Council of up to £12,700 for staff costs during their associated notice periods and £31,700 for the redundancy costs. These costs do not take account of any early retirement costs and are based on an enhanced redundancy settlement. That said, at the end of the pilot period, if the project ended, it is expected that there would also be some redundancy liabilities arising, depending on the staffing in post at that time.

Any costs associated with notice periods and/or redundancy will need to be met from the Project Implementation Reserve (subject to any remaining balance).

City Council approach towards worklessness

Option 1 Do nothing: no financial implications

Option 2 Take active lead in appropriate actions identified in the ESO Thematic Group Action Plan: additional workload, potentially up to half a full time equivalent post over the short to medium term, could be met by existing staff through adjustments to work priorities within the Economic Development & Tourism Service. The detail of any such adjustments would be determined through the 2009/10 Service Business Planning process but areas where staff time commitments may be reduced in 2009/10 include Economic Development marketing (subject to the outcome of the Marketing Review), Business Support (in the event that a bid for LDLSP funding to maintain the Business Start Grant scheme in 2009/10 and 2010/11 is unsuccessful) and Rural Development (following the appointment in early 2009/10 of the Rural Development Officer by LEP to take the lead in the North Lancashire Local Action Group). In the event that there is a shortfall in staff capacity, especially in relation to administrative support for the proposed Work Group, additional resources would be sought through the LDLSP prior to any commitment being entered into.

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has been consulted and has no further comments.

LEGAL IMPLICATIONS

Legal Services have been consulted and no legal implications have been identified.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

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Ref: n/a

CABINET

COMMUNITY COHESION

17 March 2009

Report of Chief Executive

PURPOSE OF REPORT			
To consider how to take forward community cohesion within Lancaster District in the context of the Area Based Grant (ABG).			
Key Decision	<input type="checkbox"/>	Non-Key Decision	<input type="checkbox"/>
		Referral from Cabinet Member	<input checked="" type="checkbox"/>
Date Included in Forward Plan	N/A		
This report is public.			

RECOMMENDATIONS OF COUNCILLOR GILBERT

- 1 That the remaining £16,000 balance of the Community Cohesion Reserve, together with £7,000 from the Project Implementation Reserve, be allocated to support the Lancaster District Local Strategic Partnership's (LDLSP) Valuing People Thematic Group to develop and implement a district wide Community Cohesion Strategy.
- 2 That the 2009/10 Revenue Budget be updated accordingly.
- 3 That the Head of Corporate Strategy become the Responsible Spending Officer for this £26,000 budget.

INTRODUCTION

1.1 Lancaster City Council has received an Area Based Grant for Community Cohesion for the three year period from April 2008 as set out below.

	Area Based Grant Allocation (£)		
	2008/09	2009/10	2010/11
Revenue - Cohesion	26,000	49,000 (see 1.3 below)	75,000 (see 1.3 below)

Note.

Cohesion money was a *new* funding allocation introduced from 2008/09 onwards. It is a 'general' grant, and can therefore be used for any purpose.

- 1.2 Cabinet, at a number of meetings in 2008, has considered how to best take forward community cohesion policy within Lancaster District in the context of this grant. The decisions of Cabinet are set out in Appendix 1.
- 1.3 In view of those decisions, and following the outcome of budget setting on 04 March, the remaining 2008/09 grant award of £16K is currently unallocated, and it is now held in a Community Cohesion Earmarked Reserve. As such, this funding is available for use in any year. With regard to the ABG funding awards for years 2009/10 and 2010/11, these have already been used to support the Council's 2009/10/11 General Fund Revenue Budget, and they are therefore no longer available to support other new spending.

2 BACKGROUND

- 2.1 Development of a Community Cohesion strategy is being taken forward with partners through the LDLSP and in particular the 'Valuing People' Thematic Group. The Cabinet Member nominated to the thematic group is Councillor Gilbert supported by the Head of Corporate Strategy who is also the officer nominated to the County Council's Cohesion Thematic Group.
- 2.2 This group is still at an early stage in its formation and development. It has a wide ranging agenda encompassing cohesion, developing the capacity of voluntary community and faith sectors and the development of strategies around older people and carers.
- 2.3 The group has identified its key stakeholders and developed action plans addressing its high level priorities.
- 2.4 In addition to the 2008/9 Corporate Plan priority 16.1 to develop and implement a Community Cohesion Strategy, the Council 's Corporate Plan for 2009/10 includes under Priority 6 "To Support Our Local Communities" the following key action :-

"6.1 To Deliver the Council's actions in the LDLSP's Valuing People Thematic Group Action Plan –develop and implement a Community Cohesion Strategy"

3 PROPOSAL DETAILS

- 3.1 The Valuing People Thematic Group has developed a detailed action plan around cohesion. (See Appendix 2). This plan was submitted to the LDLSP Management Group and subsequently approved by the group on the 12 December 2008.
- 3.2 It is proposed to use the 2008/9 ABG funding for Community Cohesion as a resource to both develop a cohesion strategy and implement it in future years and has identified this proposal in its action plan submission to the LDLSP Management Group. Cabinet is being asked to allocate £23K of its 2008/09 allocation of Area Based Grant to the Valuing People thematic group for this purpose to meet its Corporate Plan action 6.1 identified above.
- 3.3 On a related matter, Cabinet should be aware that Team Lancashire has now developed a support/awareness programme for members and officers which will assist the Council in developing its skills and capacity in this area. The Chair of Overview and Scrutiny and the Head of Corporate Strategy are part of the first cohort of members / officers to take part in the programme.

3 DETAILS OF CONSULTATION

Both the Sustainable Community Strategy and the Council's 2008/09 Corporate Plan were the subject of extensive consultation during their preparation and both have identified work on community cohesion as a priority.

4 OPTIONS AND OPTIONS ANALYSIS (including risk assessment)

Option 1

That Cabinet agrees to support the cohesion action plan developed by the Valuing People group and allocates £23K to the group for this purpose

Option 2

To defer making any allocations from the ABG for community cohesion at this time

Option 3

That Cabinet allocate Area Based Grant for some other purpose.

Officer Preferred Option (and comments)

The preferred option is Option 1 - to support the cohesion action plan developed by the Valuing People group and allocate £23K to the group for this purpose. This is in accordance with the earlier decisions of Cabinet to take forward development of a Community Cohesion Strategy through working with the LDLSP and the voluntary sector and ring fence the 2008/9 Area Based Grant awarded for community cohesion for supporting specific actions within Corporate Plan Priority 6.1.

RELATIONSHIP TO POLICY FRAMEWORK

The Sustainable Community Strategy has within it a priority to "Improve community cohesion, a sense of belonging and taking part by promoting positive relationships between the diverse and emerging communities and groups in the Lancaster district."

The Corporate Plan 2008/09 has a priority outcome to "work to maintain a cohesive community where respect for all is valued and celebrated" and a supporting action to "develop and implement a Community Cohesion Strategy"

The Council 's Corporate Plan for 2009/10 includes under Priority 6 "-To Support Our Local Communities" the following key action :-

"6.1 To Deliver the Council's actions in the LDLSP's Valuing People Thematic Group Action Plan –develop and implement a Community Cohesion Strategy"

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Such an approach would have a positive impact and support the Council's community leadership role in terms of positive action in respect of equality, celebrating diversity and working to promote safe and cohesive communities.

FINANCIAL IMPLICATIONS

Whilst future years funding of ABG has been used to support the 2009/10/11 General Fund Revenue Budget, following Budget Council there is £16K is available to support the request of £23K to develop and implement a community cohesion strategy in line with its corporate priorities set out in the Council's Corporate Plans for 2008/09 and 2009/10 (subject to the outcome of the 2009/10 budget).

The Council's 2008/09 Corporate Plan priority 16 is to :

- Develop and implement a Community Cohesion Strategy
- Implement the Children and Young People Strategic Plan.
- Deliver a Civic Programme which celebrates our local heritage and benefits our communities

This report addresses the first of those actions. Cabinet has agreed to keep a limited sum in the Every Child Matters reserve to progress the C&YP strategic action plan and have determined their preferred approach to the Civic Programme which does not rely on any contributions from this fund.

Given the decisions taken at Budget Council, the timing of this report and in view of the fact that a report elsewhere on the agenda (regarding worklessness) identifies a reduced call on the Project Implementation Reserve, it is proposed that £7K be taken from this, in order to support the cohesion action plan. Any future requirements (for either cohesion, or project implementation generally) will be reassessed in due course, following the outcome of Budget Council.

Should Members approve the recommendations, then the spending plans will be updated into the 2009/10 revenue budget, based on the action plan as set out in Appendix 2. It should be noted that this would allow only a one year subscription to the 'Hate Crime Initiative'.

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has no further comments.

LEGAL IMPLICATIONS

There are no legal implications arising as a result of this report

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has nothing further to add

BACKGROUND PAPERS

ABG Guidance
Government's response to the Commission
on Integration and Cohesion

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Ref:

APPENDIX 1

Cabinet, at its meeting on 3 June 2008, resolved at Minute 12:

- (1) *That the Community Cohesion element of the Area Based Grant (ABG) be used to support the establishment of a new post of a Community Cohesion Officer, initially for a period of 3 years, and to commission community cohesion activities as set out in the report.*
- (2) *That a detailed implementation report be produced in consultation with the LSP thematic group and forwarded for consideration by Cabinet once an officer has been appointed.*
- (3) *That the Revenue Budget be updated accordingly.*

This decision was subsequently 'called in' and considered by the

Overview and Scrutiny Committee at its meeting on the 25 June 2008. It resolved (Minute 10)

- (1) *That Cabinet do not appoint a Community Cohesion officer at the present time.*
- (2) *That Cabinet considers alternative ways of achieving the aims of the Corporate Plan on cohesive communities, including working with the universities. Overview and Scrutiny draws the attention of Cabinet to priority outcome 16 and highlights that:*

The Community Cohesion Strategy could be achieved through working with the LSP and voluntary sector. A future programme of spending on Community Cohesion should be based upon this strategy.

Area Based Grant money could be used to implement the Children and Young People Strategic Plan

Area Based Grant money could be used to achieve the aim of a civic programme that celebrates our heritage and benefits our communities.

- (3) *That Cabinet reconsiders the issue of achieving Level 2 of the Equality Standard as an issue separate from the spending of the Community Cohesion Area Based Grant monies.*

This referral from Overview and Scrutiny Committee was considered by

Cabinet at its meeting on the 8 July 2008 resolved in Minute 19:

- (1) *That Cabinet does not appoint a Community Cohesion officer at the present time.*
- (2) *That recommendation 2 of the Overview and Scrutiny Committee be noted:*
- (3) *That Cabinet reconsiders the way the ABG be spent in November 2008, by which time the Local Strategic Partnership (LSP) should have options ready for consideration.*

Cabinet, at its meeting on the 11 November 2008 considered a further update report on taking forward cohesion through the Lancaster District Local Strategic Partnership (LDLSP). It resolved in Minute 91:

(1) That Cabinet notes how community cohesion is being taken forward within the Lancaster District in the context of Area Based Grant

(2) That Cabinet defers making any allocations from the Area Based Grant for community cohesion at this time pending a further progress report to Cabinet later in the financial year

(3) That Cabinet notes the priority outcome to “work to maintain a cohesive community where respect for all is valued and celebrated” and agrees to ring fence the 2008/9 Area Based Grant awarded for community cohesion for supporting specific actions within Corporate Plan Priority 16.

Note

Supporting Actions within Corporate Plan priority 16 are:

- Develop and implement a Community Cohesion Strategy
- Implement the Children and Young People Strategic Plan.
- Deliver a Civic Programme which celebrates our local heritage and benefits our communities

APPENDIX 2

LANCASTER DISTRICT LOCAL STRATEGIC PARTNERSHIP

DELIVERING THE PRIORITIES OF THE SUSTAINABLE COMMUNITY STRATEGY

VALUING PEOPLE THEMATIC GROUP - STAGE 2 ACTION PLAN

Action Plan Owner Cllr John Gilbert

PRIORITY: Improve community cohesion, a sense of belonging and taking part by promoting positive relationships between the diverse and emerging communities and groups in the Lancaster district
OBJECTIVE: Improve Lancaster district as a place that celebrates diversity, welcomes newcomers and promotes positive relationships between the districts diverse communities and groups.

MEASURE(S):

Local Area Agreement; NI 1 People from different backgrounds getting on well together; NI 4 % of people who feel they can influence decisions in their locality

This document details the milestones the Valuing People Thematic Group has put in place to deliver the following agreed action

REF:	RATIONALE	TARGET DATE
TOP LEVEL ACTION (1) Write and implement a targeted action plan aimed at maintaining and improving community cohesion within the district.	A strategic partnership approach is necessary if district wide cohesion issues are to be addressed.	April 2009 – April 2012
TOP LEVEL ACTION (2) Reduce the harm caused by prejudice and discrimination	In order to increase community cohesion we need to address issues of prejudice and misinformation, discrimination and hate crime	April 2009 – April 2010

No	TASK	Lead partner with The Thematic Group	Resources required	In Place already Y/N/P	Partner/body providing resource	Resource Gap	Start date	End date
1	Commission a research project and understand the diverse and differing communities within Lancaster district	Lancaster City Council	Yes £15K	(Subject to Cabinet decision)	Lancaster City Council through the use of Area Based Grant	None if ABG is available	April 09	July 09
2	Draft and publish a district Community Cohesion Strategy	Lancaster city Council	Yes (staffing resources to be considered)	N	Lancaster City Council (any resources yet to be identified)	Potentially – to be determined	August 09	
3	Implement and monitor delivery of the Strategy	Lancaster City Council	Yes (staffing resources to be considered)	N	Lancaster City Council (any resources yet to be identified)	Potentially – to be determined	Sept 09	ongoing
4	Increase the number of opportunities available to celebrate the district's heritage and its diverse communities.	Not yet identified	Yes (resources to be considered)	N	Any resources yet to be identified	Potentially – to be determined	April 09	ongoing
5	Monitor implementation of a Cohesion Strategy by establishing baseline national indicators that track community cohesion	Lancaster City Council	£9000 to carry out the national Place Survey	Y	Lancaster City Council	None	April 2009	
	TASK	Lead partner with The Thematic Group	Resources required	In Place already? Y/N/P	Partner/body providing resource	Resource Gap	Start date	End date
1	Join up with Wyre's 'Hate Crime Initiative'	Lancaster City Council	Yes £8K per annum	(One year only, subject to Cabinet decision)	Lancaster City Council through the use of Area Based Grant	None if ABG is available	April 09	April 10

Additional Comments

Lancaster City council has been awarded a three year cohesion 'Area Based Grant' in the sum of £26K, £45K and £65K. The City Council's Cabinet is to be asked to make a decision on allocation of ABG for 2008/09 upon receipt of detailed proposals from the LDLSP.

This work is also being carried out at a county level through the LAA Thematic Group "People and Communities" The LDLSP has representation on this group to ensure that County / district is co-ordinated and supported.

The Hate Crime Initiative is a nationally recognised project which aims to address issues surrounding prejudice, hate crime and develops strategies for dealing with myths and misinformation. There is currently an opportunity to join up with this initiative if a bid to the Big Lottery Fund by Wyre to expand the range of the project is successful. See next page for further details.

Hate Crime Initiative

The initial aim of the Wyre Hate Crime Project was to increase the number of reported hate crimes within the Wyre Borough district, this would also be one of the aims within the Lancaster District but the project is about much more than increasing the number of reported hate crimes.

The project will also deliver training to staff in agencies and organisations within the district in relation to raising the awareness of hate crime (what it actually means, its effects on individuals, their families and communities). This will create a greater understanding of hate crime enabling staff to advocate the benefits of reporting incidents to the project worker and or the police resulting in improved satisfaction within communities with perpetrators hopefully brought to justice.

- The project worker will also carry out out-reach work within the community linking in with community, voluntary, statutory and faith groups looking at any issues or problems that they may have or wish to report.
- The project officer will also run hate crime awareness activities at local events and school as well as organising an annual hate crime conference for both community members and practitioners.
- The project worker will identify 'hate crime' hotspots within the district and working in partnership with other organisations formulate action plans to prevent further incidents and make the area feel safer.
- The project officer will also provide a 'signposting' service to victims of hate crime for further support from agencies and local community groups.
- It would bring continuity throughout Northern Police Division – assisting the Police's Diversity Officer to provide a consistent service regarding Hate Crime.
- The boundaries of the project would be co-terminous with PCTs and other authorities/organisations – for example Victim Support and the Race Equality Council.
- The project officer would conduct training within the council on equality and diversity and provide assistance to the Council in its efforts to achieve Level 3 of the Equality Standard for Local Government.
- The provision of this project across the Lancaster district is intended to impact in a positive way in improving community cohesion and well being felt by residents, visitors and persons working within the district.

CABINET

**Luneside East Regeneration Project
17 March 2009**

Report of Corporate Director (Regeneration)

PURPOSE OF REPORT			
To update Cabinet on progress on this key regeneration project, explain why this development is currently stalled and to present proposals for how the Council might facilitate a satisfactory and timely project delivery.			
Key Decision	X	Non-Key Decision	Referral from Cabinet Member
Date Included in Forward Plan	June 2008		
This report is public			

RECOMMENDATIONS OF COUNCILLOR MACE

That Cabinet:

- (1) Approve that, if the NorthWest Development Agency provide the Council with full grant funding for the purpose, the Council undertake all works necessary to clear and remediate (clean up) the site and put in place essential infrastructure in order to facilitate the subsequent development of the site by the private sector, subject to the Corporate Director (Regeneration) and the statutory officers being satisfied as to any conditions imposed by the NWDA.
- (2) Subject to Recommendation 1 being approved and the outcome of the funding bid, that the General Fund Capital programme and the General Fund Revenue Programme are updated accordingly.

1.0 Introduction

- 1.1 This is a complex and challenging regeneration project to redevelop the whole 7-hectare Luneside East site as a mixed-use new neighbourhood. The project concept is for a two-stage delivery with a public sector land assembly to be followed, after a land transfer, by the private sector development.
- 1.2 The Council completed the first stage early last year. Work on this involved a major compulsory purchase order and contracting with National Grid plc to decommission and remove the operational gasholder. The Council secured some £12 million in

external public funding for this from English Partnerships (EP) and the NorthWest Development Agency (NWDA) via a Joint Funding Agreement of September 2004 (the JFA) and also from the European Regional Development Fund (ERDF).

- 1.3 To facilitate the second stage the Council contracted with developer CTP Ltd / Development Securities plc (the Developer) via a Building Agreement of 2 November 2005 (BA). Under this, once both the Council and the Developer have met certain obligations the Council is to transfer the site and all risk and responsibility for project delivery to the Developer.
- 1.4 Planning requirements in combination with obligations on the Council under the JFA govern what the Developer is to deliver. Planning requirements are set out in the Council's Supplementary Planning Guidance Note 4, (SPG 4) 2004 and focus the need for comprehensive redevelopment, high quality urban design, public spaces that will be well used and routes that give good connections for pedestrians and cyclists. The JFA requires a minimum 8,000 sq metres of business space and 350 housing units. In summary, the Developer must clear and remediate (clean up) the whole site, put in infrastructure, construct the commercial phases and achieve the residential elements via contracting with housing developers.
- 1.5 The Developer has undertaken a substantial amount of preparatory work and was ready to proceed in the spring of 2008. This work is summarised in Appendix 1. Unfortunately, however, changed market conditions associated with the "credit crunch" and a collapse of confidence among house builders' means that the Developer simply cannot proceed in the way provided for under the BA. This report sets out how the Council might respond.

2.0 Proposal Details

- 2.1 A detailed review and draft options analysis carried out by officers in Spring 2008 suggested very clearly that the best prospects for project delivery and for mitigating all risks to the Council involved continuing to work with the Developer. Over the months since then officers have explored the options on this basis for taking the project forward. (The consultation involved in this is summarised in section 3 of this report). Unfortunately, as everyone is aware, the market situation continued to worsen.
- 2.2 Development values have fallen substantially as also have yields and these affect capital values. Confidence is at an all time low and the availability of bank finance for developments, never mind relatively high-risk developments, has all but dried up. Almost all house builders have fled the market.
- 2.3 All parties have now become seriously concerned that if and when the market begins to recover house builders will be very cautious and have appetite only for low risk "easy" to develop sites – for example those in green field locations. This could very well mean that the site in its current condition will remain unattractive to house builders for very many years to come. This would have grave consequences for regeneration across the western part of the City as a whole. This is because the site is at the gateway to Luneside and its condition shapes the perceptions of potential investors into the area.
- 2.4 The Developer reviewed its development proposals to see if it could better position the development opportunity. This led it to revise its master plan to provide for less housing but a better balance with fewer flats and more family houses. The Homes

and Communities Agency (HCA), formerly EP, has indicated that, in principle, this should prove acceptable and in due course the JFA can be varied accordingly.

- 2.5 Notwithstanding this, the Developer considers that the only way to significantly increase the prospect that Luneside East development can be delivered in a timely manner is to advance the site for development by clearing and remediating it. Council officers endorse this view, as, in principle, do officers of the HCA and NWDA.
- 2.6 In order to take this forward, the Corporate Director (Regeneration), after verbal discussions with the NWDA, has proposed to the NWDA that it make additional funding available for the Council to clear, remediate (clean up) and undertake essential infrastructure works in order to facilitate the subsequent development of the site by the private sector. The proposal involves the Council being accountable body for expenditures and responsible for all aspects of the works required including procurement and contract management. As part of the proposal, the Council would require the Developer to commit to funding and delivering a first phase of development just as soon as the Council completed its works. This first phase would include the main elements of public realm required for the development as a whole plus some 4,000 sq m of business space.

3.0 Details of Consultation

Officers have liaised extensively with the Developer and the NWDA and the HCA. In addition, officers have liaised with the Government Office for the NorthWest (GONW), which is responsible for European funding interests. Officers have also taken advice from the Council's appointed valuers for this project - Keppie Massie.

4.0 Options and Options Analysis (including risk assessment)

Options

- 4.1 Market conditions severely constrain what can reasonably be done. To make progress the only option available is

Option 1 is for the NWDA to grant the Council funding for it to clear and remediate the site and undertake essential infrastructure works and thereby ready the site for development when the market starts to recover. (The Developer costs such works at some £5.2 million).

- 4.2 The alternative, **option 2**, is to do nothing.

Analysis

- 4.3 Officers consider that option 1 is the only one available. Doing nothing is not realistic, not least because obligations on the Council under the JFA and its contract for ERDF funding put it at substantial financial risk until it delivers or at least can assure full development delivery. In total, funding for some £5 million of expenditures already made is at stake and, in the worst-case scenario, the Council would be left with expenditure to this amount unfunded.
- 4.4 In addition, doing nothing would have serious implications for regeneration and planning. The full potentials of this development in terms of the environmental improvements, homes and jobs that it should deliver will not be realised. There will be no significant inward investment into the wider Luneside area for years to come.

Failure to develop out this site and, because of this, prospectively other sites, will also mean the Council's total housing delivery is lowered and developers will be in a stronger position to force the Council to release Greenfield sites instead.

- 4.5 A related point is that terminating the involvement of the Developer is neither sensible nor reasonable at this stage. The developer has undoubted capacity, knowledge, commitment and readiness to deliver and the Council can mitigate its risks significantly by keeping the Developer with it so it can draw on its knowledge and experience. Further, the reasons the Developer cannot proceed as planned are no fault of its own.
- 4.6 Option 1 is also deliverable (subject to a positive funding decision). The NWDA (and also the HCA) has the discretion to grant the Council sufficient funding to undertake the works described and a variation to the JFA would be the mechanism. The Corporate Director (Regeneration) has the delegated authority to apply for such external funding. The Council owns the whole site and therefore would have full site control. It is practised as an accountable body. Planning Services' Engineering Team has the capacity and expertise to act as client for the works. This team is well versed in mechanisms for managing and mitigating risk (including cost risk) in contract management. To maximise efficiencies and minimise costs the Council should secure services from the Developer's expert consultancy team to assist with the client role, most particularly from Entec UK Ltd as consultant advisors for the remediation works and RW Gregory for servicing and utility works. The Developer has consented to this. The necessary procurements could be made under the Council's procurement rules.
- 4.7 Critically, the Council would need to procure an expert remediation contractor. The Council could draw from the applicable NWDA Panel of pre-validated contractors and, after clarifying capabilities, tender. The Council should also take advice from Entec's given it tendered the remediation contract on behalf of the Developer. The Council's Engineering Team consider that the procurement process will take some 6-9 months to complete with a 2-3 month mobilisation period after this before the contractor could commence. Entec, for the Developer, has planned on a nine-month period for site works.
- 4.8 If it is assumed that that tenders for a remediation contract are advertised in late Spring 2009 then prospectively, the site works should commence in early 2010 and be completed by autumn 2010. Given that most commentators predict economic recovery to commence in 2010 this should time well with any market recovery and the need then to present the site as a compelling development opportunity.

Risk assessment

- 4.9 Option 1 relies on the Council securing external funding to cover the costs of it undertaking site works and any grant secured would be capped. This would place the onus on the Council to manage costs and cost risks within the budget made available. Given the recession, the Council should be very well placed to secure very competitive tenders and to further mitigate out cost risk by drawing on the experience gained by Entec in its procurement for the Developer.
- 4.10 There are other risks including regulatory, technical and environmental risks but proper project management approaches and effective contract management should mitigate these to a satisfactory level. Again, the experience of Entec and also RW Gregory will assist. In addition, the continued involvement of the Developer itself in an advisory capacity would assist with risk management during site clearance and

remediation works and enable the Council to tailor remediation standards and infrastructure provision very precisely to the first phase construction by the Developer. The Council could accommodate for this in its project management approach.

5.0 Officer Preferred Option (and comments)

5.1 Option 1 is strongly preferred. A specific short-term gain is that undertaking site works bring local benefits in terms of jobs and economic activity. Resolving the problems of land contamination will remove the main constraint on development of the site. This will transform the development opportunity in the perceptions of potential investors and house builders and should significantly advance final project delivery. There are no other practicable options. To take forward this option it is recommended that Cabinet -

- (1) Approve that, subject to the NorthWest Development Agency providing the Council with full grant funding for the purpose, the Council undertake all works necessary to clear and remediate (clean up) the site and put in place essential infrastructure in order to facilitate the subsequent development of the site by the private sector.
- (2) Approve that £20,000 be made available from the Capital Support Reserve to fund the costs of Planning Services' Engineering Team in 2009/10 in preparing for and delivering the contract works.

6.0 Conclusion

6.1 The Council has very successfully completed the first delivery stage for this complex and challenging urban regeneration project. The planned second private sector stage is presently stalled because of the exceptional market conditions arising out of the credit crunch and the now deep economic recession. In the circumstances all parties see real merit in the public sector taking the project another step forward and funding site clearance and remediation works in order that, on completion of these, the site can present better to the market. It is very possible that such works can be completed to time with an economic recovery and in this event the site should attract substantial developer interest and full project delivery and the long planned mixed use new neighbourhood should be achieved.

RELATIONSHIP TO POLICY FRAMEWORK

The Luneside East Regeneration Project is identified in the Council's Regeneration Strategy for the District and is a long-standing corporate priority as reflected in the latest Corporate Plan.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Community Safety: site works will give rise to environmental effects but these will be managed satisfactorily as required by planning conditions

Sustainability: It might be noted that a project aim is to deliver as sustainable a

development as reasonably possible.

FINANCIAL IMPLICATIONS

To facilitate Option 1 certain capital costs will be incurred in utilising the Planning Services' Engineering Team and in the services of those external consultancies procured (prospectively Entec and RW Gregory). The funding application to the NWDA should include for all these costs. It can be expected that any funding approval by the NWDA would cover for the consultancy elements but the position with the costs of the Engineering Team is a little more uncertain. The Team's services are time charged and would be required for the Council to discharge essential responsibilities as client. These include services that will likely be required both before and after any NWDA funding approval – including preparation and issue of tender documentation and contract management. The total cost of these services is estimated at some £20,000 in salaries. Planning Services' will seek to fund these costs from within any NWDA funding approval but, if this does not prove possible, these will be met from the Services' existing revenue salary budget.

No additional budget provision has been made for these costs, therefore they will need to be met from within existing service budgets or from the Project Implementation Reserve (subject to the remaining balance)

Under option 1 the Council will have to pay 'input tax' (tax that we pay on acquiring goods and services) on the some £5m of remediation works. As we have opted to tax we will be charged VAT on these works but will be able to reclaim it under 'partial exemption'. The Council can cashflow for this.

The Council's Legal Service can handle the Council's interests in any variation of either the BA or the JFA but it should be noted that necessary variation of the JFA will incur the HCA and NWDA in costs and these organisations will require that the Council fund these from the project budget. The costs are estimated at some £10,000 in total and the application to the NWDA should include for these.

The Council has not yet secured the developer receipts of £1.89m provided for under the BA, of which £1.7m was previously recognised as a debtor in the Council's Balance Sheet. It is no longer felt that a debtor can be justified on the Council's balance sheet due to the uncertainty surrounding the receipt and its timing. Therefore neither the Capital Programme nor the Revenue Budget makes any provision for the developer contribution being receivable. Currently this amount has been covered by the Council's own resources.

In addition, pending the Council progressing the project further, the HCA and NWDA continue to withhold some £0.5 million in project contingency due towards the Council's expenditures on the first stage of the project. Continuing delay in the timing of the land receipt and receipt of the contingency funding has financial consequences in terms of lost interest on the Council's cash balances. This is difficult to estimate due to the rapid decline of interest rates over the past 12 months. However it is reasonable to say that the Council could have lost, on average, £1500 per month over the past financial year Reducing to an average of £700 per month in this financial year.

The Council is at increasing risk of losing some or all of the £ 2.6 million in ERDF funding that it applied to the first stage of the project - given that the project has yet to achieve any of its required outputs. Officers are liaising closely with the GONW as regards this but Option 1 offers the best prospect that the risk of such clawback can be mitigated and ultimately

avoided.

In addition, for every month for which the site remains in the Council's ownership, maintenance and associated costs of approximately £10,000 are incurred. This includes maintaining the 24 hour site security necessary both to protect the integrity of assets on the site and to deter trespassers to whom the condition of the site poses real risks. The Council has provided £105,500 in the Revised General Fund Revenue Budget for 2009/10. There is however real risk that the costs of holding the site will increase in the future if remedial safety works prove to be required to buildings and structures. As timely a project delivery as possible, with an associated early transfer of responsibilities for the site to the private sector, will therefore minimise the Council's costs. Option 1 gives the best prospect of this.

SECTION 151 OFFICER'S COMMENTS

Whilst not without risk itself, Option 1 presents a positive way forward to help manage the greater financial risks facing the Council in respect of this project, given its position and the current economic climate.

LEGAL IMPLICATIONS

There are no direct legal implications arising from this report.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and the comments have been incorporated into the report.

BACKGROUND PAPERS

Planning Services Files
Joint Funding Agreement 16 September
2004
Building Agreement 2 November 2005

Contact Officer:

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**Disposal Strategy
17th March 2009**

Report of Corporate Director (Regeneration)

PURPOSE OF REPORT			
To consider adopting a Disposal Strategy for the Council as part of a Medium Term Corporate Property Strategy			
Key Decision	<input type="checkbox"/>	Non-Key Decision	<input type="checkbox"/>
		Referral from Cabinet	X
Date Included in Forward Plan	N/A		
This report is public.			

RECOMMENDATIONS OF COUNCILLOR ARCHER

- (1) **That the Disposal Strategy be adopted to act as guidance to the Council in the disposal of assets to achieve the need for capital receipts.**

1.0 Introduction

- 1.1 At the meeting on 17th February 2009, cabinet considered a review of potential asset sales but referred consideration of the Disposal Strategy to this meeting of Cabinet.
- 1.2 Currently, the management of the Council's assets is informed by the Corporate Property Strategy adopted in 2005. This Strategy is now due for review and a Medium Term Corporate Property Strategy is being prepared. As a part of this, a separate Disposal Strategy (attached as appendix A) has been prepared which, in view of the current concerns over capital receipts, is proposed for adoption at this stage.

2.0 Disposal strategy

- 2.1 The Corporate Property Strategy adopted in 2005 informs the management of the Council's assets. As indicated above, the Strategy is now due for review and a Medium Term Corporate Property Strategy is being prepared. As a part of this, a Disposal Strategy has been prepared which, in view of the current concerns over capital receipts, is proposed for adoption at this stage.

2.2 The Strategy builds on the Property Review that was undertaken at the start of the year and presented to Star Chamber. Whilst the latter part of the Strategy sets out procedural issues, the main basis of the Strategy is to identify a framework within which it identifies those properties which should be retained by the Council, and the reason for doing so, and those where there is opportunity for disposal.

2.3 The draft Medium Term Corporate Property Strategy will identify the following “Corporate Asset objectives” against which the council’s assets should be measured:

- Fit for Purpose
- Affordability
- Compliance with Statutory/Regulatory codes
- Improved corporate management
- Sustainability
- To serve the Council’s key aims
- Enabling

2.4 The Disposal Strategy expands on these objectives with further detail and examples and it is recommended that the Strategy be adopted.

3.0 Details of Consultation

3.1 There has been no consultation on this matter.

4.0 Options and Options Analysis (including risk assessment)

4.1 Option 1 – That the Disposal Strategy be adopted. This would build on the Corporate Property Strategy provide an improved framework for managing the Council’s asset disposal process.

4.2 Option 2 - That the Disposal Strategy is not adopted. The existing guidance of the Corporate Property Strategy would be maintained although this is now out of date and does not meet the Council’s current priorities.

5.0 Officer Preferred Option (and comments)

5.1 Option 1 is the preferred option. The adoption of the Disposal Strategy provides an improved framework for managing the Council’s asset disposal process.

RELATIONSHIP TO POLICY FRAMEWORK

There is a direct link to the policy framework with the priority to keep the City Council element of Council Tax increase to acceptable levels.

In addition the Corporate Property Strategy identifies the need to use the Council’s assets to meet the Council’s corporate priorities.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

The disposal strategy links to the wider draft Medium Term Corporate Property Strategy which itself identifies issues of sustainability in property.

FINANCIAL IMPLICATIONS

Since January Cabinet, the position regarding capital receipts / asset sales has only changed in respect of assumptions regarding land at Mossgate, and other minor miscellaneous receipts. Should any further development opportunities arise in the coming months, then these will need to be factored into the monitoring of the Council's Capital Investment Strategy and Capital Programme, approved by Council in March 2009.

Similarly, should Members resolve to adopt the Disposal Strategy being put forward then this will also need to be considered in the above.

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has been consulted and has no comments to add.

LEGAL IMPLICATIONS

There are no legal implications directly arising out of this report. The implementation of the disposal strategy, if approved, will require consideration of the provisions of Section 123 of the Local Government Act 1972 and Circular 06/2003: Local Government Act 1972 general disposal consent (England) 2003 disposal of land for less than the best consideration that can reasonably be obtained.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

Public Cabinet reports and minutes

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DISPOSAL STRATEGY
2009

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1. **INTRODUCTION**

An owner of land is usually free to dispose of land as and when – in whatever manner – he or she chooses. But local authorities are subject to constraints when they come to sell land in their ownership. Some of these constraints are enshrined in law; others arise because of a general expectation that local authorities should be seen to act fairly when disposing of land as in other aspects of their work.

The Corporate Property Strategy 2005 recognised the impositions on Local Authorities when disposing of land and buildings, coupled with important service delivery considerations relevant to certain disposals. The approved policy identified a number of “key issues” for processing land sales. It further identified the preferred methods of disposal for the sale of different types of property where varying service objectives and marketing considerations are presented.

This Disposal Strategy is an integral part of the wider Medium Term Property Strategy which in turn is linked to the Medium Term Financial Strategy.

2. **CONSIDERATION OF CORPORATE POLICY OBJECTIVES**

Property disposals contribute towards the achievement of several important Service objectives, namely:

- **To lead the regeneration of our District**
- **Contribute to a safer society**
- **To deliver cost effective services that provide value for money**

These themes further flow through the Council's corporate planning process and strategies. Conducting a systematic programme of searching property review assessments to identify surplus properties for disposal is integral to the Asset Management Process.

Disposals guided by policy objectives, other than the simple generation of a monetary receipt, may be affected in two ways:

- **Disposal for preferred use may reduce receipt**

It is possible on rare occasions when disposal for a preferred use, or restricted use, does not produce the highest receipt available. An example would be the promotion of a scheme to create greater employment opportunities on a site where retail development could also be obtained and give a higher land value.

- **Disposal to a preferred purchaser (“special purchaser”) may conflict with equal opportunity and fairness principles**

Disposal to a particular party without the property first being offered on the open market exposes the Council to the challenge that equal opportunity for others to submit an alternative scheme and/or higher price has been denied.

The considerations and procedures to deal with these issues, within a legal and audit framework, are detailed in the following two sections of this report.

3. BEST CONSIDERATION ISSUES

Section 123 of the Local Government Act 1972 requires Local Authorities not to sell land for a “consideration less than the best that can reasonably be obtained”. However, the Local Government Act 2000 provides Councils with a power to carry out any transaction provided they can prove social, economic or environmental well being. In 2003, the General Disposal consent was amended to allow Disposals to occur without Secretary of State Approval to assist to deliver the 2000 Act with the proviso that the disposal of the land where the difference between the unrestricted value of the interests to be disposed of and the consideration accepted (“the undervalue”) is £2 million or less.

The Council’s Disposal procedures fully reflect this fundamental legal duty.

Although it is accepted that “best consideration” need not be best price, it is understandable that price is perhaps the most obvious criteria by which to measure the negotiated terms of disposal. It is acknowledged that as a small District Authority, the occasions when a property disposal is promoted to achieve non-monetary objectives will be rare, the circumstances in which other forms of consideration can apply and how they can be quantified is not always clear cut and a cautionary approach is required.

In such cases the following methodology needs to be adopted:

- Identify the relevant corporate policy objectives affecting the potential disposal and evaluate the depreciation in value it causes.
- Consider the implications of implementing a policy objective via a proposed property disposal and seek the approval of Cabinet to earmarking Capital Resources in order to specifically achieve the particular policy objectives rather than contributing generally to the capital receipts balances. The provisions of the ODPM Circular 06/2003, Local Government Act 1972: General Disposal Consent (England) 2003, specifically require that Members approve accepting an undervalue.
- Where the difference between open market value, and undervalue exceeds £2M, then Secretary of State Approval must be sought for the Disposal.
- Circular 06/2003 provides for a general disposal consent only where the following circumstances are met:
 - (a) the authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident in its area:
 - (i) the promotion or improvement of economic well-being,
 - (ii) the promotion or improvement of social well-being,
 - (iii) the promotion or improvement of environmental well-being, and

- (b) the difference in the unrestricted value of the land to be disposed of, and the consideration for disposal, does not exceed £2,000,000.

In considering whether to rely on this General Disposal Consent and to sell land for less than the best consideration that could reasonably be obtained, the Council should consider the following aspects for each case:

- Ensure that the legal basis is in line with the General Disposal Consent. In particular, the Council will need to consider what evidence is available as to whether and how the economic/social/environmental well-being objectives would be met by the proposed disposal of the land.
- The need to ensure that the Council complies with normal and prudent commercial practices, including obtaining the view of a professionally qualified valuer as to the likely amount of the under value. In particular, the requirements of the Technical Appendix to the Circular must be met.
- The Council should have regard to its community strategy when considering the application of the well-being objectives.
- Ensure that the Council's policy/corporate objectives are met.
- Consider the Council's financial situation and the financial implications (including VAT) of disposing of the land at less than the best consideration that could reasonably be obtained. Use of the General Disposal Consent should not undermine or significantly increase risks associated with the funding of the Council's investment plans/Capital Programme.
- Consider the feasibility of each proposal, i.e. robustness of business case / ongoing viability, supported where appropriate by a fully documented Business Plan
- Consider alternative options for land / property in question, including uses and valuations
- Consider the interests of the Council tax payers and proportionality; i.e.
 - The extent of any economic/social/environmental advantages that will arise from the disposal, balanced against the financial loss to the Council.
 - Justification of the reasons for disposing of a particular piece of land at less than market value, whilst seeking the best consideration for other land.
- Fairness in dealing with third parties who may have an interest in acquiring the land, or in acquiring other land for which full market value is to be sought.
- Whether a sale at an under value would constitute state aid, and if so whether the "aid" is within any prescribed limits.

- Ensure that if the disposal is to be at less than best consideration, controls are in place to cover future disposal, so that the Council's financial interests are protected.

Finally, a major consideration with regard to dealing with Corporate Policy Objectives relates to the Council's financial position at any one time and its sometimes competing needs for both revenue income and capital receipts. Generally, the Council has recently been in the fortunate position of being able to achieve its capital receipts programme targets without seriously impacting on revenue income from property. In other words, most disposals have been of non-tenanted properties and this has fitted in well with the principal elements of the Corporate Property Strategy.

This position may change in future and the Medium Term Property Strategy seeks the maximisation of rental income and rental growth. Where the council may have a choice in whether a future stream of income is retained or a capital receipt is received, then maintaining that choice for as long as possible is important. Such a situation has arisen with the Canal Corridor Scheme, where terms have been agreed for either a capital receipt or a revenue stream with the Council having a choice when the scheme is completed. In other circumstances, it will be necessary to undertake a Property Review where the analysis of good and bad property performers is employed to advise the Council on which disposals are best brought forward in order to maintain the balance between conflicting requirements for income and capital receipts. Such a Review was most recently carried out in January 2008.

4. DEALING WITH SPECIAL PURCHASERS

The general approach to disposing of Council properties is to offer them for sale on the open market and invite offers by way of tender. This method is usually chosen to ensure that a transaction is fair and transparent and that best consideration will be achieved.

However, the possibility of negotiation with a single (special) purchaser is not precluded. Indeed there will be occasions when the benefits to the Council lie clearly in dealing with special purchasers. These benefits may relate to such matters as a policy of the Council, or the locality of an adjoining property already owned by the special purchaser. Where, for example, the Council is involved in a site assembly venture with other landowners, special purchaser arrangements are appropriate when the assembled site is sold to the scheme developer. The Special Purchaser is also relevant with the Housing Programme and the selection of preferred development partners such as Housing Associations.

Circumstances vary considerably as to whether the grant of special purchaser status may be justified. However, typical tests to be applied include the following:

- Identification of relevant policy objectives (if appropriate)
 - Assess degree to which objectives supported and identify any specific outputs/outcomes;
 - Identify linkages to other corporate policies/strategies;
 - Identify Partnership Working considerations.

- Assess any financial benefit to the Council
 - Determine premium price and/or marriage value;
- Assess whether there is any general market for property
 - Determine whether property is of interest or value to one party only by virtue of its particular location, access availability or other characteristic (often relevant to purchase applications from adjoining land owners).

To aid the understanding of the application of the tests, it is perhaps worth considering a few examples.

1. In the West End of Morecambe, approval has been given to identify suitable specific sites for developments by individual Housing Associations. Under this policy Housing Associations have consequently been given special purchaser status at market value to ensure grant aid from the Housing Corporation can be secured. The rationale behind this was that it was envisaged that Housing Associations would be the only builders of social housing for the foreseeable future and the Housing Corporation did not wish to have different Housing Associations all competing for funds. This approach can continue under the existing proposals.
2. From a Regeneration viewpoint particularly in the area of Business Development, there are perhaps four main areas to be considered:
 - a) Business expansion onto adjoining land;
 - b) Inward investment from targeted sectors of industry or commerce;
 - c) Business relocation, where the existing premises may be released for other objectives.
 - d) Redevelopment schemes involving preferred sectors of activity, such as tourism, and the like.

When a Special Purchaser application is received and where time allows, a report shall be submitted to Cabinet for consideration of justification for direct negotiations prior to their commencement. Once negotiations are underway, the Council's Property Service will be able to determine, and endeavour to seek, the best price and other non-monetary terms (as appropriate) for the property to be disposed of.

Where time is limited, or the transaction is relatively minor, a two part approval on the same report may be acceptable; i.e. consideration of award of Special Purchaser status in principle and then, if approval given, consideration of a provisionally agreed disposal terms.

Best consideration rules apply to "special purchaser" transactions in the same way as other disposals. It is usual practice for the Council's Property Service to undertake negotiations with confirmed Special Purchasers and report recommended terms. Where this cannot be achieved the parties could agree to appoint either the District Valuer or independent expert Surveyor to act as arbitrator to determine the matter and give the Council protection from future

challenge. Alternatively, where it is thought that a Special Purchaser is seeking to take unfair advantage of the situation, it may be prudent to market the property generally to stimulate a serious offer from the applicant.

Assuming the District Valuer is not already acting on behalf of the Council or would be purchaser (e.g. NHS Trust, Housing Association) in special purchaser negotiations, he may still have a role. To demonstrate that the agreed terms represent best consideration, and therefore protect the Council from challenge, it is good audit practice for the District Valuer to be asked to supply a "franking" report for transactions of a significant/strategic nature.

5. MARKETING CONSIDERATIONS

The purpose of this section is to identify the marketing considerations which need to be taken into account before the Council makes its land available for disposal. This first distinction to be made is the difference between property that has significant development potential, and that which has not. Some of the property being dealt with will probably have little or no development potential because it is already fully developed, and planning consent is unlikely to be available for another use. A simple example might be a retail unit where there is no choice but to sell the unit as it stands.

Properties with development potential might range from an existing building where planning consent might be available to change to a more valuable use, to a vacant site which is ripe for development. It is essential to identify development potential before the sale process gets underway. Sometimes the potential is obvious; sometimes it needs seeking out. Within the Lancaster District, the number of sites available in council ownership where there is development potential is extremely limited. Should such a site be available for disposal, it may be easily marketed, or may require careful handling before marketing can be contemplated. When a site is ready for the market, there are two considerations that need attention. Firstly, what is the level of demand, and when should a particular property be sold to maximise capital receipts. Secondly, which sites and property should be actively promoted to benefit the perception of the City Council to the outside world, so that inward investment can be targeted. Both of these considerations are not dissimilar in the sense that they relate in the need to phase the release of land prudently to maximise potential.

The capital receipts programme is scheduled for a 5 year period meaning that some sites and premises will be dealt with in future financial years. This can mean that some properties may be vacant for a long period of time. In this case, consideration should be given to a number of important issues. Firstly, there is a need for an assessment of which vacant properties are most vulnerable to vandalism and damage, and potential erosion of the capital value. This will enable the formulation of a priority action list in the disposal programme. Clearly, vacant buildings would be at the top of the list in such circumstances.

Secondly, having identified land or property that is likely to be unsold for a lengthy period of time, temporary treatment of those properties should be pursued in order to positively promote that perception of the City and its surrounds. This may involve such action as making sites and premises secure in the interest of public health and safety, and generally keeping property in a neat and tidy condition. Where long term disuse of land in particular is envisaged,

action should involve the exploration of funding sources to create temporary landscaping schemes.

As such matters relating to temporary treatment of land and buildings depart from the Disposal Strategy issues, this is dealt with by way of a separate section under the Medium Term Property Strategy.

In the current Local Authority environment, any disposal policy would not be complete without reference to financial considerations. Capital controls have essentially linked the Council's disposal programme to its capital programme. Whilst the phasing outlined above may generate one approach, the aspirations of the Authority in one particular year may force an alternative approach. The Medium Term Property Strategy is a flexible Strategy and where possible, will help to attain these objectives.

6. MARKETING OF STRATEGIC SITES

Land disposals are undertaken by the Council's Property Service, although it may be prudent in certain circumstances to enlist the help of specialist agents if it is felt that this may result in a greater capital receipt to the Council due to their more detailed knowledge of the market for that property. The marketing strategy for each piece of land will reflect the outputs required from the disposal and each project will be taken on its merits.

7. MINOR LAND ENQUIRIES

The Council regularly receives enquiries about the purchase of small areas of miscellaneous land. These enquiries can have an impact on service delivery as they can be quite time consuming yet result in minimal financial reward to the Council.

From time to time it is necessary to advise potential purchasers that if the disposal is not in line with Corporate Plan priorities, then it will not be possible to prioritise the work involved in the process. Where enquiries relate to miscellaneous sites of relatively low value (£5,000 or less) that may be of interest to more than one party but are not currently on the property review programme, in the interest of overall value as opposed to an individual's aspirations, it is appropriate for Property Services to be able to defer consideration of a case, albeit by placing the site at the lower end of the review list. Such enquiries should be deferred for up to 1 year, unless exceptional circumstances cause a dramatic increase in value. At the expiration of the 1 year period, the position shall be reviewed.

8. DISPOSAL PROCESS

The appendix accompanying this document provides guidance for the treatment of transactions through the disposal process. It consolidates and updates best practice gained through the development of previous disposal policies and draws on experience in processing transactions over many years.

The preparation work required for a success disposal is outlined, together with an analysis of the available methods of disposal (particularly the tender mechanism). Topics relating to the grant property options and the monitoring of disposals are further discussed.

Where property disposals take place, each case should be considered and supported by the Asset Management Working Group. The property disposal programme for each year should also be considered by the Asset Management Working Group as part of its requirements to look at all investment decisions and to inform the Medium Term Financial Strategy. Any opportunity disposals that arise outside of this programme should be the subject of an officer recommendation to Cabinet in the first instance following full consideration by the Asset Management Working Group.

Where appropriate, Development Agreements should be used that ensure that the Council can retain control over major development schemes and yet ensure that maximum consideration is received as required under s123 of the Local Government Act 1972, as amended.

APPENDIX

PREPARATION FOR DISPOSAL

The key to a successful disposal of any sort is preparation. To assist in meeting the corporate targets set for capital receipts/regeneration projects/service delivery, a strict timetable should be set for the sale process, since the proceeds of sale will be required as quickly as possible. The stages of preparation for disposal need to be clearly defined and carefully followed, so that misconceptions and delay are kept to a minimum. These stages need to include the following:

(i) Internal circulation

Under normal circumstances, Property Services will be aware of all Departments' strategic needs for property in the future, via their Service Asset Management Plans. In circumstances where operational requirements are identified by Services and are included in the Capital Programme with funding available, then there may be a need to provide a safety net, by advising that Service of the availability of the property, subject to a strict timescale for, say, one month. However, such circumstances are very rare and it is envisaged that this will occur before the property is formally "declared surplus" to the Council's requirements and, once this latter trigger point has been passed, progress must be rapid.

(ii) Inspection

This is an obvious, but sometimes neglected stage. The purpose will be to spot any matter that is likely to hinder the disposal. This may be some physical defect in a building or, perhaps, evidence of encroachment by a neighbour. These matters will have to be dealt with before the property comes onto the market. The property to be sold should be as “clean” as possible. The inspection should bring to light any potential for development about which the Council is not already aware. For clarity, the inspection particulars and report to senior managers should be in a form which indicates that all necessary steps have been taken.

(iii) Special Purchaser (refer also to Special Purchaser Section in main body of Policy document)

At an early date, it should be established whether the balance of advantage is likely to lie in dealing with a special purchaser. In some cases, the decision is marginal. However, there will be situations where the adjoining owner wishes to acquire the Council's land, or where he may own an overriding interest over it, such as a right of way, for instance. Dealing with this party direct may produce a marriage value which would enhance the capital receipts above that which would be paid in the general market. In such circumstances, it may be prudent to deal with the special purchaser against a strict time limit with contingency plans, having been made to go to the market if negotiations cannot be progressed. If the special purchaser does not already have an interest in the property, it can sometimes be advantageous to let him bid in open competitions, particularly if this is by sealed tender.

(iv) Asset Vehicle

Where the Authority chooses to use its assets to procure modern methods of delivering regeneration projects, it may be appropriate to put land within an asset value which will have a 10-15 year timescale on return and investment but will secure sustainable regeneration projects.

(v) Legal Matters

The Legal Service should be instructed as early as possible to report fully on the Council's title and any rights or obligations which might affect it. Typical examples could include restrictive covenants, rights of way and reversion clauses. It is often too late if any problems become apparent once marketing and negotiations are underway, as these tend to prejudice the Council's position. In addition, where it is intended to include covenants or conditions, it is essential to obtain legal advice at an early stage to ensure that these can be fulfilled in practice, prior to negotiations.

(vi) Physical Constraints

Certain physical constraints (e.g. electricity pylons) will be obvious from inspection; others (e.g. underground cables, adverse ground conditions) may not be. It will be necessary, therefore, to check the Council's own records, and also to check with statutory undertakers. Opinions differ about the validity of carrying out site condition surveys, as these are expensive

and often may not relate directly to a particular developer's own intentions. The merit of undertaking such a survey will need to be considered in relation to each site, and the extent of the restrictions which the Authority intends to place on the development activity.

(vii) Define Development Potential

At this stage, a view will have been formed on any development potential which might exist, and any matters affecting potential value will have been brought to light. It will be necessary to decide if some, or all, of any identified constraints should be removed before marketing takes place. For those properties with development potential, it is essential, in order to maximise the realisation from disposal, to give potential purchasers the most detailed possible guidance. In straightforward cases, the equivalent of an "outline planning consent" for the most valuable use available should be secured. Where definite scheme criteria are to be met, or a range of development options is possible, a "development brief" could be agreed which gives some scope for the "flair" of individual developers. Where the Council wishes to consider ensuring a desired use of property to achieve its policy objectives, it will be necessary to introduce appropriate clauses or covenants.

It is Council policy to include a clawback provision on disposals.

METHODS OF DISPOSAL

In view of the potential scale and sensitivity of land transactions, a high standard of probity is necessary to avoid any possible allegation of corruption. The chosen method of disposal must therefore be fair and consistent, entirely transparent and primarily in accordance with Standing Orders.

Where the property is marketed, as opposed to negotiations with a special purchaser, there are four principal methods of disposal available:

- (i) Private Treaty
- (ii) Informal Tender (sealed bids)
- (iii) Formal Tender (contractual bids)
- (iv) Auction

Clearly, each method of disposal engenders varying degrees of ensuring fairness and transparency with the sale by formal tender probably being the most likely to avoid any criticism of the authority's dealings. However, it is not always appropriate or convenient to adopt the formal tender route, nor does it always guarantee best consideration when potential purchasers are put off by the sometimes complex and lengthy procedures. The Property Service should recommend to the Council which other method of disposal is appropriate provided that best consideration can be achieved.

Council's Constitution

It is important that the appropriate sections of the Council's Constitution are strictly adhered to, in particular the Contracts Procedure Rules and Financial Regulations.

It will also be noted that the decision on the method of any disposal will be taken in accordance with the principles and guidelines set out in this policy document.

The characteristics and constraints of each method of disposal are as follows:

(i) Private Treaty

This is probably the most widely used method of disposal in the property market, as it is the simplest to adopt, and the asking price can be at a pre-determined figure. Further advantages are that it allows a flexible approach, time pressures are seldom imposed and it is widely understood and accepted by the general public. However, it is also acknowledged that the main disadvantage is that proceedings cannot always overcome allegations of unfairness, and it is therefore a method to be used sparingly and with caution in the local government field. Difficulties have arisen where individuals have anticipated that, where they are first to apply, they will receive an option to acquire, and this has caused some concern, both to Council Members and, more importantly, to the market in general. To overcome such potential problems, unless a special purchaser situation applies, all properties to be sold under this method should be advertised for sale, in any event, so that all interested parties have an opportunity to enter into the discussions.

In applying this method, it should be remembered that this approach is satisfactory in the case of properties whose sale value is reasonably easy to predict, and therefore settlement of an asking price is straightforward, e.g. dwellinghouses. It is difficult to engender competition on price because an indication of what will be acceptable is generally given at the outset. It should be considered bad practice to try and play offerers against each other to build up their offers of the asking price, and could damage the Local Authority's reputation in the market (although an acceptable price).

Development sales should not be conducted by this method, since it leaves little scope for the flair and interpretation which may lead to the unexpectedly favourable offer. It is worth noting that the procedure can be time-consuming since time limits are difficult to fix, and there may be many individual negotiations before a satisfactory transaction takes place. It is the method with the least openness and, therefore, the most susceptible to abuse.

To ensure the greatest possible transparency in this type of transaction, proposals have been put forward with regards to recommended procedures. Primarily, there is a need to ensure segregation of duties i.e. one person should not be able to undertake all the fundamental stages in the sale process. This might involve one person preparing a valuation and another carrying out the negotiations although it is considered technically unsatisfactory to do this. More practical measures are already in place, and will continue to be so, where an independent person (usually a manager) reviews the valuation of another. In any event, the "asking and settling" figures should be approved by the Head of Property Services at the outset, and should be reviewed in line with progress.

In view of recent market conditions, it is considered prudent that the Council should set a time limit against potentially tardy prospective purchasers, and that they are made aware of the Council's firm view on this prime point at

the outset of negotiations. It is also worth noting that the Council must satisfy itself as to the financial ability of the prospective purchaser to complete, before negotiations become too advanced.

(ii) Informal Tender (sealed bids)

Procedures which need to be adopted are similar to those as set out below for the Formal Tender. However, tenderers may put forward conditional offers which will only become binding once that conditions have been resolved. It will, therefore, be open to the Council to pursue discussions with more than one tenderer in order to achieve the most advantageous transaction. Since considerable time and effort may be spent on such discussions, it is essential that *bona fide* shortlisted tenderers should be established at the outset, and guarantees that finance for a particular scheme is available.

As it is possible to hold discussions, there is more opportunity to arrive at a deal which suits both parties. Some conditions may not be capable of fulfilment for a considerable time, but there is an opportunity to build in provisions for the Council to take advantage or, say, a better than expected planning consent or better receipts above an agreed threshold.

For more complex development schemes, it is commonplace for interested parties to be interviewed and outline development schemes presented, before the tender procedure starts. This is in line with the three key criteria that have been long established in progressing major schemes, i.e. quality of the scheme, deliverability and the financial bid. It may be appropriate for a selected list of purchasers/developers to be asked to take part in the tender procedure itself. This approach saves wasted effort from potential purchasers, and cuts down the possibility of abortive negotiations being pursued on receipt of tenders. An important role with the Informal Tender procedures, which needs to be adopted by the Council, is that the Council should not seek to increase the basic tenders put forward, nor accept increased offers from unsuccessful tenderers. However, it will be permissible for the Council to seek increased rewards from the fulfilment of conditions which would create more value than the original offer envisaged.

In comparison with the Formal Tender, the Informal Tender lacks the advantage of speed, since post-tender negotiations can be protracted. It also lacks the certainty of the Formal Tender procedure, since negotiations may not be successful. There is a much greater burden on the professionals' skills of the Council's advisers, as the requirement to negotiate raises some of the disadvantages of a sale by private treaty. For this method to be a success, the rules for Informal Tenders must be laid down very clearly and followed to the letter by the Council and external advisers. The main advantage of the Informal Tender process is that the most advantageous terms for the Council can be formulated even in very complex cases. Notwithstanding the advantages and disadvantages, the Informal Tender route is presently the most commonly used method of disposal by this authority.

Generally, the rules to ensure transparency, fairness and consistency outlined above in the sale by private treaty method should be applied to informal tendering where practical.

(iii) Formal Tender (contractual bids)

The Formal Tender (otherwise known as Contractual Tender) procedure requires a great deal of preparation, as the tender document forms the contract for sale. A full appraisal of the transaction needs to be carried out in order to have a baseline against which to assess the tenders when they are returned, and may, indeed, provide a guide price during the course of marketing. For sound legal reasons, the Council will need to indicate in the tender documents that it is not bound to accept the highest or any tender. In addition, tenderers must be required to provide evidence, on return of the tender, that finance is available to proceed. In order to ensure fairness and the best chance of an acceptable offer, the tender will be widely publicised, and all interested parties given the chance to participate.

The advantages of the Formal Tender procedure are that it can be concluded quickly where it is unconditional, it avoids tentative time-wasting enquiries, the Council does not need to accept any tender if the offer is not satisfactory, the tender procedure should guarantee complete fairness and, as bids are not public, tenderers should put forward their best offer, rather than, as at auction, a figure marginally more than the second bid. However, this method does have its disadvantages: some potential purchasers may be put off by the procedure whereby they commit themselves contractually upon making the financial offer. All matters must be completely clear before the procedure starts. There is little room for discussion about the scheme itself although to some extent this could take place with prospective purchasers during the marketing preparation provided care is taken not to compromise the transparency of the transaction.

This method of disposal is, therefore, inappropriate for straightforward transactions where conditions of substance remain to be overcome before the bid can be finalised. In development situations, it could, for example, be effective in the sale of cleared sites for residential development where planning consent is available and the density of development is not in question. It may also be appropriate where several development schemes might be possible where negotiations with various parties will not be required to achieve the best scheme. On the other hand, it is now becoming more common in residential land sales for Formal Tenders to take place conditional upon detailed planning consent where outline consent has been previously obtained.

The rules for formal tenders for sale cover, inter alia:-

- advertising that tenderers are to be sought;
- procedure for pre-tender shortlisting of applicants, where appropriate;
- evidence of financial standing required from tenderers, either on receipt of tenders or at the pre-tender selection stage;
- the principal contents of the tender package, including a clear indication of the date before which the tender must be returned;
- inclusion of a pre-addressed envelope clearly indicating details of a tender and the date on which it is to be opened;

- how receipt of tenders should be recorded and arrangements for safe keeping prior to the opening date;
- the constitution of the Council's team which should be present at opening of tenders and if an independent witness is necessary;
- arrangements for listing and witnessing tenders on opening;
- the form of the officer's report to Committee recommending which tender(s) should be accepted or pursued further in discussion;
- rules for informing successful tenderers;
- instructions not to solicit or accept increased basic offers after receipt of tenders;
- Members should not engage in negotiations under any circumstances;
- the external advisers should not be bound by similar rules.

Tenders – Dealing with Late Bids

Whilst best efforts are made to ensure that policies and procedures are watertight and completely fair and transparent, there are occasional circumstances that, if not handled with great care, can lead to challenges against the Council of maladministration. In the context of sale of land and property by tender, the issue of dealing with late bids is one such area of concern.

The potential dilemma is that whilst it may be appropriate to maintain a policy of disregarding any late bids in a tender exercise, the Council may find itself missing the opportunity to secure best consideration where a late bid substantially exceeds bids received on time. Indeed, case law referred to in the Legal Framework confirmed that Councils could be found to fall short of achieving best consideration if rival bids are not fully investigated.

Presumably in the light of this case law, the Local Government Act 1972 General Disposal Consents were widened in 1998 to effectively give authorities the discretion to disregard late bids in a formal tender exercise. Unfortunately no guidance was given as to whether using this discretion would defeat a challenge of the actions of the Council if taken to Court.

As far as this Council is concerned, where it is decided that the tender route for the sale of land and property is the right approach, there are very good reasons for laying down strict rules of compliance with the procedures, particularly time-scales. This is to ensure that all interested parties are treated equally and that the Council operates in an efficient and cost effective manner by reducing uncertainty and delay. Above all, the principle that parties should not benefit from the tactic of an intentional late bid is paramount. Nevertheless, there may be, at times, genuine late bids and where the proposed disposal involves a substantial capital receipt the Council must be able to make decisions that avoid foregoing significant increases in sums achievable.

It is proposed, therefore, that the policy of the Council in respect of late bids should be as follows:

- Where a land and property disposal is to be effected by way of tender, whether informal or formal, any bids received after the specified closing date will not be accepted.
- This will at all times be made quite clear in the tender documentation.
- In the case of a tender exercise where the highest bid opened in accordance with the rules and procedures is less than £50,000, the Head of Property Services will proceed to report for approval all bids received on time and exchange contracts with the approved bidder accordingly.
- In the case of a tender exercise where the highest bid opened in accordance with the rules and procedures is £50,000 or more, the Head of Property Services will proceed to report for approval all bids received on time. If, however, at any time before approval or exchange of contracts a higher bid is received, the Head of Property Services will bring such a bid, or bids, to the attention of Council.
- Where late bids are brought to attention of the Council, the recommendation of officers would invariably be that a re-tender exercise should be undertaken, unless the late bid is less than £5,000 above the highest valid bid, in which case best consideration as a whole would be compromised by a re-tender exercise.

It is recognised that dealing with late bids would be less of an issue where the period between receipt of tenders and exchange of contracts is minimised. The Council's Property Services will, therefore, use all practical means to reduce the time taken to complete transactions after receipt of bids, notwithstanding delays that can be encountered when dealing with a cautious purchaser.

It is interesting to note that in the case *R v Pembrokeshire C.C. ex parte Coker* (1999), the rejection of an offer by the Council owing to it being late and lacking certainty of monetary worth (offer dependent on success of further negotiations), it was held on this point that the Council has acted reasonably. The conclusion was that it was common sense for the Council to accept the bird in hand offered by one party in contrast to an alternative offer that was "a bird in a faraway bush".

(iv) Public Auction

To achieve success with this method of disposal, external auctioneers will inevitably be used. It will be advisable for the auctioneer to be briefed at an early stage, and fully involved in preparing conditions of sale and fixing the reserved price. The reserve should be approved by the Council and conveyed to the auctioneer immediately before the auction. Sale by auction requires preparation of all contractual details beforehand in order that a binding contract may be affected immediately a bid is accepted.

The advantages of an auction are complete openness and swift completion of the transaction if an acceptable bid is generated. However, there are disadvantages with this method. Firstly, the principle of sale by auction falls in and out of favour with the market, and there are times when auction should not be considered as the interest from the market will be low.

Secondly, success of an auction will depend on the atmosphere generated in the sale room which, in its own right, may depend on the quality of other lots on offer, over which the Council may have no control, and a great deal will rest with the skill of the auctioneer. Thirdly, as a binding contract must be entered into immediately a bid is accepted, funds to meet the sale price must be available within 28 days, and this may exclude most purchasers who need to raise finance. Fourthly, there is little time for potential purchasers to consider the transaction, and no opportunity to discuss alternative ways to structure the deal. Finally, the winning bid need only be marginally more than the second highest bid, and need not represent the maximum the purchaser would have been willing to pay.

In view of the current financial constraints illustrated above, auctions are only considered appropriate for property where they do not hold any major strategic influence.

9. OPTIONS

A further matter, which needs to be considered under this heading, is the question of options. In relation to land and property, these are rights, usually created by contract, enabling a party to acquire property at a future date if certain pre-conditions are satisfied. Normally, in this Council's experience, options are used to assist industrialists with long term business planning and expansion or to give developers an opportunity and comfort to work up expensive development proposals on complex schemes. The latter can sometimes be linked to a "Lock Out" agreement whereby the Council would agree to withdraw a piece of property from the disposal market for a fixed period of time, usually of short term duration.

In the past, the City Council has rarely used this process, but that does not mean to say that it does not have a place in the disposal process, especially where market conditions were to seriously deteriorate, and they were need to bring confidence to future investment. In any event, there is invariably a potential value to an option, and in the right commercial circumstances, the Council should negotiate a suitable consideration before granting an option on land or property.

MONITORING DISPOSALS

Disposals of land and property obviously play a key role in both the Council's realisation of policy objectives, and in maintaining an acceptable capital programme through the generation of capital receipts. The Property Review process has helped to bring forward substantial capital receipts in recent years, but, as time goes by, it is proving more difficult to identify opportunities, as assets reduce. Nevertheless, important links have been established with the Head of Financial Services via the Asset Management Working Group, to successfully monitor the situation and, with the limitations of capital controls, the free flow of up-to-date information is always important.

To assist in the monitoring role, the Head of Property Services reports on a regular basis on progress with disposals through the Asset Management Working Group and through the PRT process.

As resources become tighter, it has become clear that this monitoring process needs to stretch through to completion, as the availability of capital receipts greatly affects the flexibility of the Council's actions. In addition, where disposals

at restricted values are agreed, it will be important for the Council to monitor the position on the ground to ensure that its intended objectives are achieved, and, where developments change, to seek clawback. Similarly, post-disposal monitoring also extends to checks to ensure that purchasers comply with any conditions of sale or covenants (usually within stipulated time periods) specifically imposed in order to achieve Council Policy objectives. As part of wider property management best practice, post-monitoring procedures are followed to ensure that the Council does not miss any opportunities created in the past or near future.

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

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of the Local Government Act 1972.

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CABINET

**Employee Establishment - Vacancy Authorisation
17 March 2009**

Report of Chief Executive

PURPOSE OF REPORT			
To seek Cabinet's approval to the filling of established vacancies where recommended and to note a decision taken under the Council's urgent business procedure.			
Key Decision	<input type="checkbox"/>	Non-Key Decision	<input type="checkbox"/>
		Referral from Chief Executive	X
Date Included in Forward Plan	N/A		
This report is public			

RECOMMENDATIONS OF THE CHIEF EXECUTIVE

- (1) That Cabinet Members agree that the vacancies recommended for filling by Service Heads are filled as soon as possible.
- (2) That the action taken by the Chief Executive, in consultation with the relevant Cabinet Member and the Chairman of the Overview and Scrutiny Committee in accordance with the Scheme of Delegation, in respect of the following vacancy, be noted:-
 - (a) That the Conditions of Employment of the temporary holder of post PL0096 in Planning Services be amended to extend the fixed term contract on a reduction in hours to 18.5 on a temporary basis to accommodate a request from the substantive post holder to work half time for a period of 12 months following maternity leave, under the Family Leave Scheme policy.
 - (b) That the call in be waived in accordance with Overview and Scrutiny Procedure Rule 17 to allow immediate implementation.
- (3) That the Revenue Budget be updated accordingly, for any deleted or deferred posts.

1.0 Introduction

1.1 Cabinet, at its meeting on the 12 November 2008, resolved, amongst other things:

That Cabinet

- (2) Notes the responsibility of Cabinet for the funding of the employee establishment and until further notice, determines to withdraw funding in respect of all posts becoming vacant, apart from Refuse Collection or where a service is facing severe disruption where temporary arrangements be put in place. It should be noted that health and safety is a priority and supersedes all other requirements. This is all subject to the outcome of (3) below.
- (3) Requests that the Chief Executive, upon any post becoming vacant, submits an appropriate form to Cabinet for its consideration to determine if the filling of the post is considered essential for delivering the Council priorities/statutory responsibilities.
- (4) Requests the Chief Executive to develop the appropriate internal procedures to manage this process.
- (5) Resolves that this process be reviewed following the next annual Council meeting in May 2009.
- (7) Authorises the Head of Financial Services to update the Revenue Budgets for any post reductions as a result of 2 and 3 above.

1.2 As determined by Cabinet, an appropriate Vacancy Authorisation form has been produced identifying employee vacancies. The form identifies where the post concerned contributes to a Council statutory responsibility, the fulfilment of a Corporate Plan Priority, Service Business Plan objective, income generation/collection or is financed by external funding. The forms will be circulated prior to the meeting.

2.0 Proposal Details

2.1 Cabinet is requested to consider the recommendations of Service Heads and comments from the Human Resources Manager and Corporate Directors. Cabinet are advised to identify which Service areas are considered to be a higher priority for the filling of vacancies and, therefore, approving expenditure.

3.0 Details of Consultation

3.1 None.

4.0 Options and Options Analysis (including risk assessment)

4.1 The information contained within each form provides details related to the risks of not filling the related vacancy. Cabinet has the option of releasing funding on either a time limited or permanent basis or withholding funding. If funding is not released, there will be an impact on Service provision. If funding is time limited, it will be more difficult and possibly more expensive to fill a post.

5.0 Officer Preferred Option (and comments)

5.1 To fill those posts as recommended by Service Heads unless Cabinet identifies the work as being of a low priority

6.0 Urgent Decision

6.1 The holder of Post No. PL0096, Forward Planning Administrator, went on Maternity Leave with effect from 19th May 2008. This post holder is responsible for supporting the Forward Plans Team in the preparation of the Local Development Framework, which is a Council priority. Preparing LDF documents requires continuous publicity and consultation with local communities, in urban and rural areas, and with businesses, landowners, developers and interest groups. The post holder carries out the full range of these consultation tasks, which assists the Council to meet its agreed LDF timetable. This work is ongoing during the LDF process.

6.2 The main post holder indicated her desire to return to work half time for a period of 12 months following maternity leave, under the Council's Family Leave Scheme Policy. She was due to return on 16th February 2009. The temporary holder of post PL0096 in Planning Services completed a fixed term contract on the 13th February 2009. The proposal was to extend the temporary contract, with a corresponding reduction in hours to 18.5, to facilitate a job share arrangement.

6.3 The urgency for this decision was to allow the main holder of the post to return to work half time, under the Council's Family Leave Scheme Policy, without any loss of service.

RELATIONSHIP TO POLICY FRAMEWORK

Effective management of the council's establishment will help to meet the financial efficiency targets included in the Medium Term Financial Strategy. Care must be exercised however to ensure that the process allows the filling of vacant posts that contribute to the delivery of the Council's corporate priorities and statutory responsibilities.

**CONCLUSION OF IMPACT ASSESSMENT
(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

The process allows for an impact assessment of not filling a post to be made in respect of each vacant post as it is considered

FINANCIAL IMPLICATIONS

As set out on each Vacancy Authorisation form.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has no comments at this stage, but will comment at the meeting if necessary.

LEGAL IMPLICATIONS

There are no legal implications.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

Funding of the Employee Establishment
Report to Cabinet and Minute from the 12
November 2008.

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Ref:CE/ES/Ctees/Cabinet/Vacancy
Authorisation/17.03.09