

Appendix 7 - Guidance on Disposal of Council Property Assets

- 1.1. As well as meeting the requirements of the Cabinet direction, Local Authorities have obligations to comply with s123 of the Local Government Act 1972
- (i) states that **a local authority may dispose of land in any way they wish.**
 - (ii) states that a local authority **'should not dispose of land less than the best that can reasonably be obtained ie best consideration'**
- Local authorities must exercise their function and comply with their fiduciary responsibilities in a proper manner and provide reasoned consideration of the issues.
- A Council can be found to be in breach if:
- a) it failed to take proper advice
 - b) failed to follow proper advice that cannot be justified
- or
- c) followed advice that was simply wrong

- 1.2. Guidance is available to Councils on the disposal of Local Authority assets¹. The guidance identifies the key principles to be considered so that land is disposed of effectively and efficiently. The key principles and steps met to meet these principles are set out below.

Every disposal having clear objectives from the outset. These should establish the key objectives and targets for land disposal – for example, this could be to maximise housing capacity, receipt or employment floorspace, or to reduce costs through divestment.

The approved Council Regeneration Strategy sets out the Councils objective to dispose of the land known as Brockhampton West. The Regeneration Strategy is clear that the maximum value should be obtained from the sale in order to re-invest the funds to the benefit of the Council. The cabinet direction noted within section 1 of this report reinforces this objective by delegating authority to officers to achieve 'best value' for the site.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/508307/160316_Land_disposal_guidance.pdf

Disposals rooted in local plans. Land disposals should help deliver local planning objectives, addressing matters such as the requirement for a five year land supply, or the assessed need for housing and employment land.

The site is included in both the extant and emerging local plan for development of employment uses.

Early and meaningful engagement with other public bodies and the market. Early engagement with other public bodies will ensure that the views of all authorities with an interest can be taken into account, so that land is used as efficiently as possible. Early market engagement should inform the disposal strategy and brief, and ensure the opportunity is attractive to the market.

Engagement was undertaken with a number of stakeholders in order to develop the disposal strategy and form a recommendation ensuring best consideration would be obtained on disposal. The Environment Agency was consulted in order to better understand the responsibilities to the Council related to development of former landfill. Engagement with the Environment Agency, the Local Planning Authority, and the Councils own Environmental Health team formed a better understanding of the constraints to development. This engagement allowed the disposal strategy to account for considerations arising from the contaminated nature of the site. The market was also engaged extensively in a number of different areas to confirm the strategy for disposal that would achieve the best consideration to the Council in line with its clear objectives. Market engagement will be considered more fully within section 6 of this report.

The appropriate level of investment determined prior to disposal. To ensure the best possible return, in many cases it may be appropriate to invest in a site before disposal, for example by obtaining planning permission or providing infrastructure. The appropriate type and scale of investment will depend on the individual circumstances of the site, and understanding these early will ensure the best outcome for authorities.

Through engagement with appropriate bodies, and due to the sites use as former landfill, the consideration of the amount of investment required prior to disposal was of particular relevance when following the guidance. The amount of investment required, in combination with the objective of obtaining best consideration was a key consideration and is clearly set out in section 6 of this report.