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# Commercial Property disposal – Units 1 and 2 Cleveland Gate Retail Park, Guisborough

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<b>Committee considering report:</b>	Executive
<b>Date of Committee:</b>	12 December 2024
<b>Portfolio Member:</b>	Councillor Iain Cottingham
<b>Report Author:</b>	Richard Turner
<b>Forward Plan Ref:</b>	EX4635

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## 1 Purpose of the Report

The purpose of this report is to seek approval for the disposal of the Council owned investment property, Units 1 and 2 Cleveland Gate Retail Park, Guisborough, TS14 7FE in accordance with the Property Investment Strategy and to seek delegated authority to consider and accept any offers received in compliance with the Council's S123 LGA best consideration duty and to negotiate, agree and enter into the relevant documents necessary to complete the disposal of the property.

## 2 Recommendations

It is recommended that the Executive delegate authority to:

- 2.1 the Service Director – Finance, Property & Procurement in consultation with Executive Member for Finance & resources (Risk Management & Procurement) and the Service Director for Strategy & Governance to consider, review and accept any appropriate offer made in accordance with this report and in the parameters of the information contained in the Part II appendix to this report and;
- 2.2 the Service Director (Strategy & Governance) having consulted with the Service Director (Finance, Property & Procurement) to enter into the relevant sale documentation in accordance with agreed sales heads of terms for the disposal of:  
Units 1 and 2 Cleveland Gate Retail Park, Guisborough TS14 7FE

### 3 Implications and Impact Assessment

Implication	Commentary
<b>Financial:</b>	<p>Disposal of the asset will result in a significant capital receipt for the Council but with a corresponding loss of income from the asset, that loss being recognised within the Council’s balance sheet. However that loss is mitigated through income streams yielded from the asset since purchase in 2018.</p> <p>Disposal of the asset results in income foregone in future years, however this loss is offset through the Council having a capital receipt to future finance ongoing capital expenditure on the Council’s core estate. Capital receipts are a powerful resource for the Council offsetting the need to undertake debt financing at a time when PWLB borrowing rates are in excess of 5%, compared with historic averages of 2-3%</p>
<b>Human Resource:</b>	Not applicable
<b>Legal:</b>	<p>The Council has a statutory duty under S123 Local Government Act 1972 (S123 LGA) to secure the best consideration reasonably obtainable for the property.</p> <p>There are exceptions to the obligation to obtain best value. Those exceptions are:-</p> <ul style="list-style-type: none"> <li>• Short tenancies (i.e.; terms of 7 years or less);</li> <li>• With Secretary of State Consent; and</li> <li>• Where the proposed disposal falls within the criteria set out in The Local Government Act 1972 General Disposal Consent (England) 2003 (The General Consent Order).</li> </ul> <p>The General Consent Order enables a local authority to dispose of any interest in land at an undervalue where:</p> <ul style="list-style-type: none"> <li>• the undervalue does not exceed £2million pounds; and</li> <li>• the disposal is likely to contribute towards the promotion or improvement of any one or more of the economic well-being, social well-being or environmental well-being of its area.</li> </ul> <p>Section 123 LGA does not specify or oblige a local authority to follow a particular process to secure the outcome of achieving</p>

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	<p>best consideration. However, case law has shown that the best consideration can be demonstrated by marketing a property or by obtaining an appropriate independent valuation or by a combination of both.</p> <p>Best consideration is not limited to the purchase price but may include a term or condition which identifies a specific commercial benefit to the seller.</p> <p>If applicable, when determining whether or not a proposed disposal of property at less than best consideration meets the criteria of the General Consent Order, a local authority should comply with the prudent commercial practice of obtaining a valuation from an independent professionally qualified valuer (a member of RICS) setting out the likely amount of the undervalue.</p> <p>Any such valuation should set out the restricted and unrestricted values of the property. The restricted value being market value of the property having regard to the terms of the proposed transaction and the unrestricted value being the amount that would be received where the principal aim is to maximise the value of the capital receipt.</p> <p>In addition to the valuation, the local authority should demonstrate how the disposal would contribute towards the well-being of its area.</p> <p>It should also be noted that if a disposal is made at an undervalue, the local authority could be considered as providing a subsidy to the buyer and would need to comply with the requirements of the Subsidy Control Act 2022.</p>
<p><b>Risk Management:</b></p>	<p>The Council currently does not make revenue provision for maintenance of the property investment portfolio. Furthermore, there is no revenue or earmarked reserve provision for future voids or repairs. Any void risk and maintenance requirements are carried at risk against the Council's General Fund.</p>
<p><b>Property:</b></p>	<p>The disposal does not impact on the Council's core estate.</p>
<p><b>Policy:</b></p>	<p>The proposal is in accordance with the reviewed Property Investment Strategy approved at Executive on 2<sup>nd</sup> November 2023 (ref EX4402).</p>

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	Positive	Neutral	Negative	Commentary
<b>Equalities Impact:</b>				
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		
<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		
<b>Environmental Impact:</b>		X		
<b>Health Impact:</b>		X		
<b>ICT Impact:</b>		X		
<b>Digital Services Impact:</b>		X		
<b>Council Strategy Priorities:</b>		X		
<b>Core Business:</b>		X		
<b>Data Impact:</b>		X		
<b>Consultation and Engagement:</b>	Property Investment Board (PIB)			

## 4 Executive Summary

- 4.1 The Council has invested in a commercial property portfolio of £62 million (inclusive of purchasing costs). The portfolio currently generates income which supports the delivery of Council core services, total gross income generation since adoption of the strategy is approximately £22 million (to September 2024).
- 4.2 Taking into consideration the current economic climate faced by Councils with rising inflationary pressures, surges in looked after / supported populations and increasing capital financing costs, the Executive approved at its meeting on 2 November 2023 a revised Property Investment Strategy for the Council to disinvest from the existing commercial property portfolio and utilise resulting capital receipts to future fund capital financing of investment in the Council's core estate and transformation programmes.
- 4.3 Of the commercial properties in the portfolio, the Council successfully disposed of the asset, Sainsbury's, High Street, Northallerton, DL7 8EA at the end of March 2024.
- 4.4 The remaining properties held by the Council are:
- |  |             |
|--|-------------|
| (a) Units 1 and 2, Cleveland Gate Retail Park, Guisborough | Retail      |
| (b) 104 Terminus Road, Eastbourne                          | Bank tenant |
| (c) 303 High Street, Lincoln                               | Retail      |
| (d) 3 The Sector, Newbury Business Park, Newbury           | Office      |
| (e) 4 The Sector, Newbury Business Park, Newbury           | Office      |
| (f) 85 Dudley Port, Tipton                                 | Retail      |
| (g) 79 Bath Road, Chippenham                               | Industrial  |
| (h) Discovery House, Mere Way, Nottingham                  | Office      |
- 4.5 The Council's Property Investment Board (PIB) acting as the operational governance for the commercial property portfolio received a report by the appointed property agents to discuss the planned disposals and it is recommended that the Council now progress with the disposal of the Cleveland Gate, Guisborough asset.
- 4.6 The Council has instructed its property agent Montagu Evans to progress with the marketing stage of the disposal and the agent is now seeking offers from the market.
- 4.7 The expectation is to complete the disposal of this asset within the current financial year ending 31 March 2025.

## 5 Other options considered

- 5.1 The alternative option would be for the Council to retain ownership of the asset and continue to receive the income from the tenants.

This option does not align with the Property Investment Strategy approved by the Executive on 2<sup>nd</sup> November 2023 (ref EX4402) and would not achieve the capital receipt the Council wishes to achieve.

## 6 Conclusion

6.1 In accordance with the revised Property Investment Strategy, and in agreement with the Council's Property Investment Board, it is recommended the Council proceed to market and dispose of Units 1 and 2 Cleveland Gate Retail Park, Guisborough TS14 7FE in accordance with the Council's S123 LGA best consideration duty and within the parameters of this report and the Part II appendix to this report.

## 7 Appendices

7.1 Appendix A – Part 2 report including marketing material.

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### Background Papers:

West Berkshire Council report to Executive of 2<sup>nd</sup> November 2023 (EX4402)

### Subject to Call-In:

Yes:  No:

The item is due to be referred to Council for final approval	<input type="checkbox"/>
Delays in implementation could have serious financial implications for the Council	<input checked="" type="checkbox"/>
Delays in implementation could compromise the Council's position	<input type="checkbox"/>
Considered or reviewed by Scrutiny Commission or associated Committees, Task Groups within preceding six months	<input type="checkbox"/>
Item is Urgent Key Decision	<input type="checkbox"/>
Report is to note only	<input type="checkbox"/>

**Wards affected:** Not applicable

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