



Resources & Public Realm Scrutiny Committee

22nd February 2023

Report from Corporate Director of Finance and Resources

Spaces for Community Use

Wards Affected:	All Wards
Key or Non-Key Decision:	N/A
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
No. of Appendices:	N/A
Background Papers:	None
Contact Officer(s): (Name, Title, Contact Details)	Denish Patel, Head of Property Denish.Patel@brent.gov.uk Tanveer Ghani, Director of Property and Assets Tanveer.Ghani@brent.gov.uk

1.0 Purpose of the Report

- 1.1 The Resources & Public Realm Scrutiny Committee requested a paper on the available community spaces in the borough that can be used by voluntary organisations, such as charities, arts and cultural groups (“third sector”), to carry out their work, and the help/support the Council can offer to such groups who find themselves in need of property to carry out their work.
- 1.2 Property assets are an important contributing factor to the quality of public services. For third sector organisations, a great deal of variation exists in that, some organisations may possess significant property assets, while others have very limited, or no access to property assets. One of the key roles of the Commercial Property Team is to support and maintain a sustainable commercial property estate to support the delivery of key Council objectives by the third sector.

- 1.3 Third Sector organisations deliver a vast range of services that are of social and public benefit. The Third sector providers help to complement, improve, fill gaps or replace Council provision, particularly in the social welfare field, and their services, which are value-based and mission driven, are often:
- More accessible to service users;
 - Embedded within the community they serve;
 - Resourced by volunteers, who are often directly involved in their governance;
 - Rely on expertise that is rooted in close relationships with service users.
- 1.4 Brent has active and positive relationships with third sector organisations. However, the ability to formally evaluate and evidence the impact of third sector delivery on public services continues to be challenging. Brent recognises the social value of their work, however, a proportional revenue stream is required to pay for the running costs, maintenance and upkeep of a Council-owned property asset. Therefore, there is a need to manage the balance between supporting delivery of valued services through third sector providers and the need to generate revenue to help maintain a sustainable commercial property estate.
- 1.5 This report therefore sets out the available data on third sector organisations in the borough needing space, the approach, opportunities, constraints and challenges for distributing space and meeting the demand for property from the third sector with a view to developing a new Brent Property Strategy.

2.0 Recommendation(s)

- 2.1 For the Resources & Public Realm Scrutiny Committee to note the contents of this paper.

3.0 Detail

Commercial Property Estate Portfolio

- 3.1 The Commercial Property Team forms part of the Finance and Resources Directorate and manages the Corporate Landlord function (General Fund) in respect of commercial properties and other non-housing Council operational assets.
- 3.2 The Council's overall commercial property estate portfolio currently consists of approximately 158 lettings (in relation to individual buildings as well as multi-let buildings) comprising a mix of uses, of which 79 (approximately 50%) are identified as being let to third sector organisations that deliver public value in one form or another in the borough (see Table 1 below). Broadly speaking, these lettings can be categorised as follows:
- 'Not for profit' organisations which are established for the purpose of delivering public services, such as charities and voluntary organisations. These organisations often have the special skills and networks needed to deliver services but often lack access to property assets needed to deliver services. Many organisations in the UK categorised as third

sector have dual registration as a charity and a company – while remaining not for profit and are revenue-raising social enterprises.

- ‘For profit’ commercial organisations which are established with a mission to serve a public purpose e.g., a private company providing pupils with education to grow their skills and talents. Private companies can also have ring-fenced public service provision within non-profit subsidiaries.
- ‘Hybrid’ organisations which possess significant characteristics of more than one sector, such as entrepreneurs that have developed small, private companies with a focus on social value i.e., a children’s nursery serving the local community or a company providing immigration advice.

Table 1: Analysis by letting types

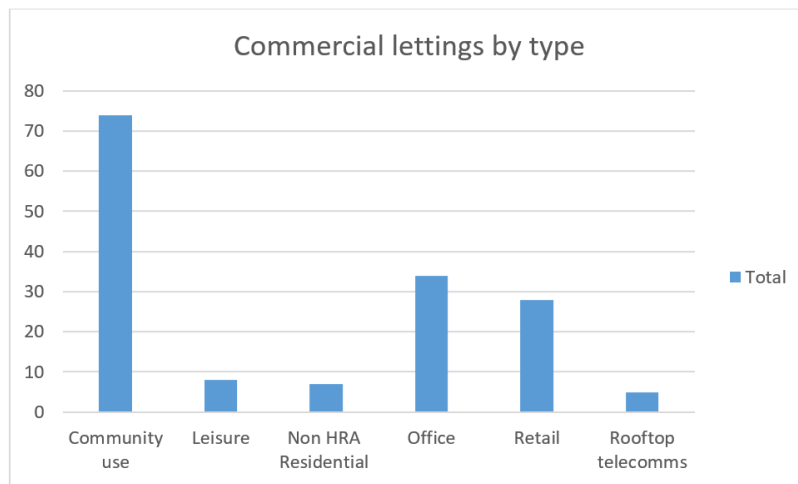


Table 2: Total rent income by letting type

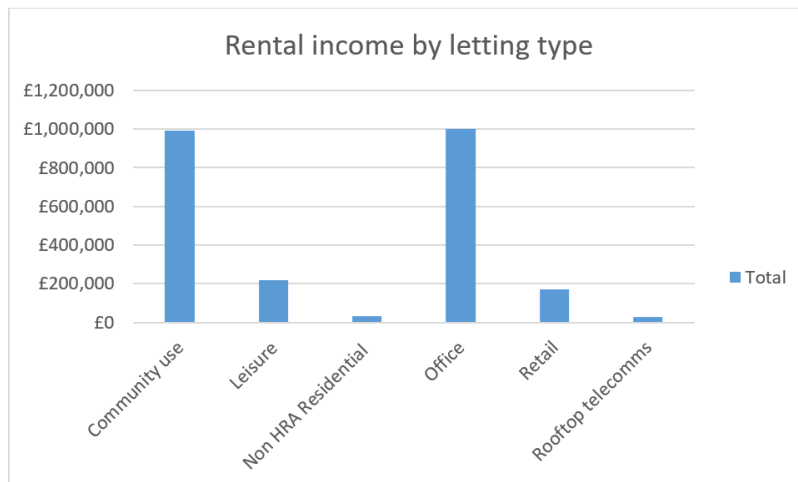
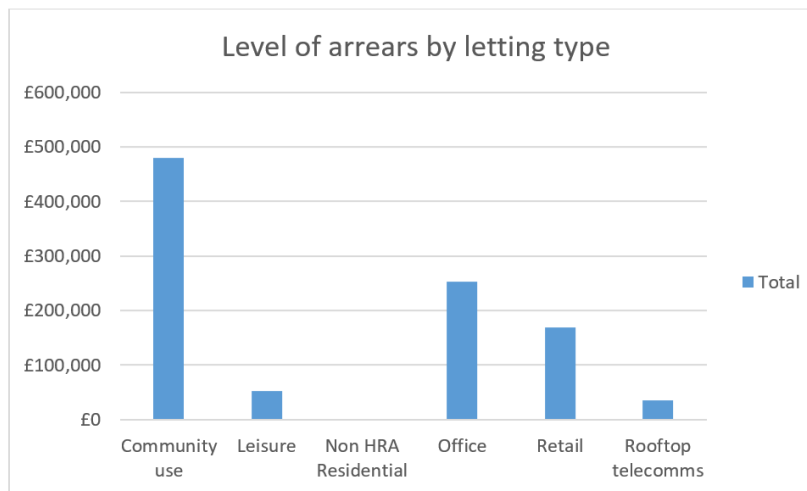


Table 3: Total arrears by lettings type



- 3.3 There are various asset classes within the commercial estate portfolio that are let to third sector organisations and provide a range of uses including retail, office, industrial, leisure and sports facilities, and community centres. These are located in various parts across the borough.
- 3.4 The commercial estate portfolio also includes a number of multi-let buildings/office blocks providing valuable office and community space to third sector organisations and small to medium size enterprises that deliver services to the community, or beginning to get established, providing employment opportunities and additional non-domestic rating revenue. These buildings include the Designworks in Harlesden, and the Brent New Enterprise Centre in Willesden.

Property Strategy

- 3.5 It is worth noting that the vast majority of the commercial estate portfolio is historic. Furthermore, the Council's Property and Asset Strategy 2015-19 moved away from a strategy of disposing of surplus property for a capital receipt to a presumption of retaining property to maximise its revenue potential.
- 3.6 As the nature of public service delivery changes, new ways of working and smarter technologies are adopted in response to constrained budgets and rising inflation, there is a need for Brent to develop a new sustainable property strategy that can be moulded to provide an overarching framework to support the development and management of the Council's commercial property estate.

Commercial Letting Approach

- 3.7 The activities for letting commercial properties to third sector organisations is based on three stages:
- 1) Maintaining or acquiring a property asset that is of benefit to the community and which helps to deliver both economic and public outcomes as per the Borough Plan;

- 2) Leasing the property asset to a third sector organisation on agreed terms following a standard marketing and letting exercise or in exceptional cases through direct letting;
- 3) Protecting the Council from unexpected or adverse events, including the loss or damage of the leased asset by ensuring adequate budgets are in place to cover long term management and maintenance costs.

Acquisition

- 3.8 The former Picture Palace in Harlesden was recently acquired by the Council as part of the Town Centres regeneration programme. This acquisition came about after years of transient and contentious occupancy by a number of businesses, followed by a period of closure.
- 3.9 The purchase coincided with the development of the Black Community Action Plan and resulted in the Council taking the opportunity to dedicate the building for delivering a new community centre that will be run by a consortium of local charitable organisations.

Leasing

- 3.10 Leasing benefits third sector organisations by allowing them the use of a property asset for less than the outright purchase price which they could otherwise not afford. For the Council, the value derived from granting a lease comes from the revenue it can generate in the form of rental income, which will help to cover the purchase price of the asset before it wears out or is lost, and in the case of third sector lettings, also help to deliver services that meet Council priorities.

Council-led Mixed Development

- 3.11 The properties which form part of wider regeneration plans are sometimes let on a temporary, meanwhile basis, whilst long term plans for the buildings are realised. These properties in many cases if left empty, present security, maintenance and compliance issues and costs for the Council and so are often let for short term uses on terms which reflect their condition, often under a licence (which has limited security) at nil rent. Redevelopment often leads to improved accommodation for third sector organisations, as demonstrated by the demolition and redevelopment of a community centre, as part of a larger mixed-use development, for the Learie Constantine West Indian Association and Brent Indian Community Centre in Willesden are a great example of co-creation and co-production with a third sector organisation
- 3.12 The Council's third sector tenants occupy premises on a wide variety of terms which present the Council with opportunities to renegotiate the terms of the leases at lease end, and there may also be the option for the Council to enable the leases to effectively wind down with a view to obtaining possession of the property at some date in the future so that it can redevelop the site to better support community and other mixed uses. A good example of this is the Carlton Centre in South Kilburn which is being redeveloped to provide better quality accommodation for a variety of uses including community use where the existing third sector tenant will vacate into temporary space and move back in once the property is redeveloped. Furthermore, there will also be circa 667sqm

of new community use that will be delivered as part of the Wembley Housing Zone regeneration scheme.

Temporary Licensing

- 3.13 Other meanwhile uses benefiting the community include premises support to London Community Kitchen who have been granted a temporary licence to use the Civic Centre kitchen and food preparation area to support the Holiday Activity and food programs. London Community Kitchen are using the premises to cook and deliver thousands of meals for Brent/Harrow communities to support people facing food insecurity and children. Officers are also currently assisting SUFRA in collaboration with the Change and Customer Insight Team with options to use the Bridge Park kitchen and servery area for 6 months to provide support and meals to the homeless.

Long-Term Lease Disposals

- 3.14 A long-term lease is effectively a contract between Brent Council (as the landlord) and an external party (as the prospective tenant) for specific rights regarding the use of a Council-owned property over an agreed period of time.
- 3.15 The Commercial Property Team works closely with the Strategy and Partnerships department to deliver the aspirations of our local communities, especially around developing community spaces that are run and managed by local communities. Recently, the Council has agreed heads of terms for long term leases with Mahogany Arts (a social enterprise) for the premises they occupy at 28 High Street in Harlesden and with LEAP (a charity that runs careers education programmes for children) for the premises they occupy at Hazel Road in Kensal Green. As a result of the Council's support for a new long-term lease, Mahogany Arts were able to secure £100k in grant funding from the Arts Council to undertake refurbishments works on their premises in Harlesden.
- 3.16 The income generated from lettings to the third sector is generally at market rent which is determined by the asset class, related planning use (which may restrict market rent achievable), level of demand and prevailing market conditions. Some agreements are let under modest rents and are often historic, dating back a significant period of time where the Council is locked into the terms of an existing lease, or where the occupation is in need of being regularised, or where leases are requiring renewal.

Letting Process

- 3.17 There are two types of strategies used for letting, 1) the marketing strategy and 2) non-market strategy or direct letting.

Marketing Strategy

- 3.18 The market strategy helps the Council ensure fairness and transparency and attain its economic and social goals, using both financial and non-financial measures.

- 3.19 To ensure community groups are treated fairly and consistently, in a transparent and accountable manner when bidding for or occupying community buildings the vast majority of void properties available for letting go through a marketing exercise in which third sector organisations can bid for available properties.
- 3.20 Void properties will be marketing on the Council's own website and/or through local agents to carry out the marketing activities. The marketing particulars will include:
- Photographs of the property;
 - The address, floor plan and a location plan of the property;
 - A brief description of the property and the area;
 - Rental estimate based on a current independent market valuation;
 - Estimate of repairs required and any rent free period;
 - Length of lease being offered;
 - Any conditions of use and planning use class;
 - Viewing and contact details;
 - Deadline for bidding and method of assessing bids.
- 3.21 A number of criteria will be used to assess bids. For example, the Council will assess bids against the planning use permitted, the condition of the property and the investment required to bring the property back into use, the needs of the local community and fit with the Council's priorities, the economic return required and level of rent proposed, and the financial standing of the organisation placing the bid, and their track record and experience. The budget process of a third sector organisation will reflect its size and scope and the sources and purposes of its income, which will include grants, contracts, earned revenue and gifts – all with attached funders' criteria. So they have a responsibility to develop a budget that delivers funders objectives, as well as organisational mission, which provides the financial resources but also the constraints on how much can be spent on things like rent and property repairs and maintenance. Many smaller third sector organisations are handled by volunteers or people without specialist financial management skills which enhances the financial risks for them and the Council.
- 3.22 For each decision made, there will be trade-off between one use of a resource and several alternative uses and the Council cannot satisfy them all, and therefore choosing one option inevitably means that another possible opportunity has been missed, lost or foregone. Close collaboration with other service areas helps to strategise, set priorities and focus resources and determine which services from which providers best meets needs and addresses questions of reach and efficiency.
- 3.23 In certain situations, a lack of investment in the assets has resulted in buildings now reaching the stage that has resulted in certain elements needing replacement such as the roofs and historic defects. This can result in the Council incurring significant expenditure directly or indirectly through the grant of rent free periods to allow tenants to implement the repairs.
- 3.24 Upon selection, the Council will agree Heads of Terms then instruct the Council's Legal Department to draw up and complete the lease and other legal documentation.

Non-Marketing Strategy

- 3.25 The non-market strategy is vital to ensure that the Council can progress its regeneration and wider objectives where a marketing strategy may be in conflict with those goals. With the high number of regeneration sites and tenants affected by redevelopment proposals, the non-market strategy has become as important for the Council as the market strategy, though used much less frequently. The Council may need to use some discretion in deciding which is most appropriate strategy when allocating scarce property resources. The emphasis on a given approach will differ depending on the context which will influence what is acceptable. Decisions which fall outside the standard letting process are made by Officers in consultation with the Lead Member and decisions explained and recorded in delegated authority reports in accordance with the Council's constitution.
- 3.26 Direct lettings may take place in exceptional circumstances where for example the Council is seeking to re-house an existing tenant who requires to be vacated from their current premises because of Council regeneration or redevelopment plans affecting the property. There are legal and constitutional rules that need to be followed when direct letting and these are detailed in the Legal section below.

Challenges and constraints in supporting the third sector

- 3.27 The previous decade has seen a conscious change in approach to ownership and use of Council non-operational assets, moving from disposals to long term retention of assets and a focus on lettings to generate income rather than capital receipts. However, the cost of providing and maintaining a vast sustainable commercial property estate is high. The commercial property portfolio is a key resource for the Council to provide an economic return and public value. In order to be kept in good use it requires an inflow of financial capital for its maintenance, repairs, refurbishments and upgrades where needed. Budgets needs to cover operating costs, ongoing maintenance, and provision for periodic upgrading and eventual replacement. Thus, the budget must provide for an adequate amount of financial resources to be employed for the purposes of maintaining or upgrading the stock of physical capital over time. The rental income generated from the commercial portfolio also makes an important contribution to the Council's budget but is becoming more difficult to sustain post Covid-19 as tenants struggle to pay rent arrears, ongoing rent and rising energy bills.
- 3.28 The diverse nature of the portfolio, the vast majority which is historic, includes elements which provide a stable and relatively secure income stream. Others are more sensitive to economic forces and require greater management by the Council as landlord. The nature of the asset can however expand its role into other areas of Council activity beyond solely income generation which are set out in the report. However, in certain situations, a lack of investment in the assets has resulted in buildings now reaching the stage that has resulted in certain elements needing costly replacement. This can result in the Council incurring significant expenditure directly or indirectly through the grant of rent free periods to allow tenants to implement the repairs or the property remaining vacant for extended periods of time and deteriorating physically and in capital value terms making them more difficult to bring back into use.

3.29 There are four types of assets which we are able to use to support third sector organisations with their property needs:

- Existing properties which form part of the commercial estate portfolio and are being re-let, either because the existing lease has expired or the tenant has vacated the property;
- Operational sites/buildings which have been declared surplus and moved into the commercial estate portfolio.
- Community halls/rooms available to hire on an ad hoc basis within existing housing estates
- New properties acquired/developed, such as the former Picture Palace.

3.30 Existing properties form the majority of properties available for letting to third sector organisations and the vast majority of these are already let, and historic decisions determine their current use. The majority of these lettings are longer term lets with vacant units representing a very small proportion of the Council's commercial estate. Matching supply with demand in the context of differing needs and requirements is extremely difficult and we are not always able to meet organisations exact requirements. Where we cannot assist with vacant units, we will carry out a general search for any suitable vacancies available on the open market, using specialist subscription-based software, should they require such support.

3.31 Lettable space which has recently moved into the commercial estate portfolio include vacant office space within the Civic Centre which is being used to support other public sector tenants such as the NHS and Valuation Office Agency. Part of the office space within the William Dunbar House in South Kilburn, which Council staff use for office space, has recently been made available to let to the Kilburn Medical Centre prior to their relocation to their new premises as of the Peel Project redevelopment.

3.32 The Council rarely purchases new commercial property assets because this requires significant capital expenditure and substantial rental returns to make it viable. Therefore new acquisitions tend to be one-offs to support wider strategic objectives, such as the acquisition of the former Picture Palace. We therefore have limited opportunity to increase capacity in supply of physical stock to be let for the first time. Significant expenditure also needs to takes place to repair and maintain physical stock to secure future flow of income, and not just on new additions to stock, and this also creates an opportunity cost because an alternative use of available capital sums has been sacrificed.

3.33 The supply of available properties could therefore be said to be largely fixed in supply and its availability is determined entirely by demand which is high and the voids available. It is a static system with little or no transfer in or out. The demand for property, particularly from the third sector, is growing rapidly. The recent economic change arising from the Covid-19 pandemic and cost of living crisis has created new patterns of demand for property from the third sector as they seek to provide more support to growing numbers in need, but the volume of properties the Council has to support them has not changed.

3.34 The table below (based on initial analysis) shows the number of properties let to third sector organisations and void properties by ward. Note that some of the void properties, particularly the sports pavilions, are only part vacant, be in a

variety of conditions or state of dilapidation, and the Council may be in active negotiations with some others:

Table 4: Analysis of third sector lettings and voids by ward

Ward	Third sector lettings	Voids
Alperton	1	2
Brondesbury Park	1	0
Cricklewood and Mapesbury	4	0
Dollis Hill	1	0
Harlesden and Kensal Green	10	1
Kenton	4	0
Kilburn	6	1
Kingsbury	2	1
Preston	2	0
Queens Park	4	1
Queensbury	2	0
Roundwood	7	1
Stonebridge	17	1
Sudbury	4	6
Welsh Harp	3	0
Wembley Central	6	1
Wembley Hill	2	1
Wembley Park	1	0
Willesden Green	2	0
Northwick Park	0	2
Tokington	0	1
Grand Total	79	19

3.35 As Table 4 above shows, the Council has a limited number of vacant properties in each ward. The demand for property from the third sector which is known by the Council and its partner organisations is shown below:

Organisation	Number of organisations on the waiting list
Brent list	7
CVS Brent list	17

3.36 Several factors determine the Council's ability to meet demand as land and property assets are relatively fixed in supply. Factors can change relatively fast, such as new technology, societal needs and market conditions. In general, the Council will have greater control and influence over internal factors than it will over external ones. The table below summarises the internal and external constraints in meeting the property needs for the Third Sector:

Table 5: Analysis of internal and external constraints in meeting third sector property needs

Factor	Internal/external
Availability of Council-owned land and property resources	Internal
Financial resources including the availability of	Internal and external

grants for the Third Sector	
Legal conditions relating to existing occupation of Council-owned land and property (such as leases and protected tenancies).	Internal and external
Council's constitution with regards to land and property disposal/acquisition	Internal
Government legislation about subsidy control and the need to address 'best value' considerations i.e. s123 LGA 1972	External
Planning Policy which establishes the 'use class' of a land/property asset	External
Market forces, supply and demand, state of the economy etc. which creates the emergence of new Third Sector services/organisations	External
Development of the Third Sector to mature as an independent and sustainable asset management entity	Internal and external

Opportunities for supporting the third sector

3.37 As/when a property becomes void or surplus to the Council's operational requirements, an options appraisal is carried out which considers the following:

- Existing use and condition;
- Site/property context – site constraints, planning use constraints etc.;
- Potential alternative uses (including potential for redevelopment and constraints/opportunities associated with that);
- Market valuation – including existing use and alternative use/redevelopment value;
- If lettable – consideration given to best fit with Council priorities and selection of letting strategy;
- If redevelopment – delivery options e.g. Council led, Housing Association led, private sector led, potential for joint venture or other delivery vehicle;
- If disposal – consideration and recommendation on the most suitable disposal route.
- If a property is in such poor condition, the recommendation may be to demolish if no alternative uses can be identified.

3.38 There are also up to 14 community halls/meeting rooms that are available for hiring on ad hoc basis. The Commercial Property Team will be able to signpost interested parties from the Third Sector as to where these facilities are located and who to contact to arrange bookings.

3.39 The Commercial Property Team has commenced a project to improve management information on the commercial property estate portfolio and use technology to better manage and maintain our assets so that scarce resources can be effectively used to meet Council wide objectives. As part of this project, officers appointed Landtech to carry out detailed analysis on the Council's land and property holdings across the borough and this will complement internally available data.

- 3.40 The data reconciliation project highlighted above will also help contribute to the development of a new property strategy for Brent Council to replace the previous strategy, ensuring there is a strategic fit with the new Brent Borough Plan 2023-27. One of the most important functions now of the Property and Assets department is to improve operational effectiveness and develop a new property strategy, both of which are essential to improving support to the third sector. Several activities (outlined below) have already begun to formulate the new property strategy:

Description	Expected time horizon	Status
Data cleanse and audit of commercial property data, moving beyond existing information sources and consider data from new perspectives	6 months	Partially complete
Appointment of strategic consultants	3 months	Commenced
Internal and external consultation following strategic advice	6 months	Pending
Formulation, Cabinet approval and implementation	12 months	Pending

4.0 Financial Implications

- 4.1 This report sets out the role of the Commercial Property Team and how it operates with community spaces. Accordingly, there are no direct financial implications from this report.
- 4.2 The Commercial Property Team currently manages approximately 193 commercial units, this includes units within multi-let buildings and rooftop telecom lettings. The current capital value of the commercial properties is circa £46m.
- 4.3 The expected rental income for these properties is approximately £3m per annum (including HRA telecom income and HRA ground rents). The commercial property assets are historic assets which were not originally acquired/built for the sole purpose of making a return on capital investment.
- 4.4 The Council's intention is to collect as much debt as possible and may need to enter into repayment agreements, taking into account the financial circumstances of each tenant. However, it is likely that some proportion of the Covid-19 related debt may need to be written off and will be uncollectable.
- 4.5 The Commercial Property Team's annual budget covers only minor repairs which is generally funded from service charges/rental income collected and does not cover expenditure for major infrastructure or significant capital repairs.

The budget for major works is required to be approved by the Ca3ital Programme Board.

5.0 Legal Implications

- 5.1 The Council may dispose of properties (which includes the granting of leases) under section 123 of the Local Government Act (LGA) however they see fit. There is no obligation on the Council to market land or properties being disposed of under this provision in any particular way as the LGA does not prescribe how disposals should be marketed. So long as best consideration reasonably obtainable is achieved a Council may market land or property it intends to sell in whatever way it deems will deliver best consideration – whether by open market, auction, private treaty etc. Best consideration in this context is defined by open market value which is generally determined by an open market valuation of the rent achievable.
- 5.2 If best consideration cannot be achieved and the proposed lease is to be granted at an undervalue it may be possible to rely on the General Disposal Consent 2003. Certain criteria need to be satisfied in order to rely on this – specifically the land must be surplus to requirements; the disposal should help to promote or improve the social, environmental or economic well-being of the area; the undervalue should not exceed £2m and the state aid rules should be complied with.
- 5.3 However, if the circumstances of the proposed disposal do not meet the criteria set out in the General Disposal Consent 2003 and it is considered that the transaction is one which could receive specific consent from the Secretary of State an application for specific consent can be made to the Secretary of State.
- 5.4 Where regularisation of occupation needs to occur, the organisations occupying these buildings have historically done so for some time, and leases or licence or tenancy at wills have been put in place to regularise occupation. In these circumstances, there has not usually been a marketing process and is deemed unnecessary. Though an independent market valuation will be obtained to ensure that the Council is complying with its duties under the LGA.
- 5.5 Under paragraphs 11.1 to 11.3 of Part 3 of the Council's Constitution the Corporate Director of Finance and Resources has authority to acquire or dispose of land and buildings and to agree new leases, licences, and easements. The restrictions placed upon such acquisitions or disposals are set out in paragraphs 5.2, 5.3 and 5.6 of Part 3 of the Constitution. Changes to the constitution allows the acquisition or disposal of leases licence and easements in respect of land or buildings as an undervalue but need to be referred to the Cabinet member within their portfolio in consultation with the Leader.
- 5.6 The new UK subsidy control regime will enable public authorities, including devolved administrations and local authorities to deliver subsidies tailored to local needs. The Council therefore needs to take into account new regulations in relation to the EU-UK Trade Corporation Agreement (TCA), which is aimed at ensuring that the granting of subsidies does not have a detrimental effect on trade between the parties, and which attempt to provide a clear, proportionate and transparent set of principles and rules that make clear which subsidies are permitted and prohibited, and under what circumstances.

5.7 Any change of use of a property may require planning permission. However, the general rule is that planning permission is not needed for changes in the use of buildings within each use class specified in the Schedule to the Use Class Order.

6.0 Equality Implications

6.1 This is assessed on a case-by-case basis, often in consultation with Members as equality implications can be either positive or negative depending on the context.

7.0 Consultation with Ward Members and Stakeholders

7.1 Consultation with Ward Members/stakeholders takes place on a case-by-case basis and the Council's constitution requires consultation with the Lead Member for Finance, Resources & Reform on certain transactions.

8.0 Human Resources/Property Implications (if appropriate)

8.1 There are no direct Human Resources/Property Implications as a result of this report.

Report sign off:

Minesh Patel

Corporate Director of Finance and
Resources