

Agenda

Regeneration and Property Committee Meeting

Date: Tuesday, 14 November 2023

Time 7.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, ME10 3HT*

Membership:

Councillors Monique Bonney (Chair), Hayden Brawn, Ann Cavanagh, Lloyd Chapman, Shelley Cheesman, Roger Clark, Simon Clark, James Hall, Peter Marchington, Sarah Stephen (Vice-Chair), Terry Thompson, Mark Tucker, Mike Whiting, Chris Williams and Ashley Wise.

Quorum = 5

Pages

Information about this meeting

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1. Emergency Evacuation Procedure

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- (a) The fire alarm is a continuous loud ringing. In the event that a fire drill is planned during the meeting, the Chair will advise of this.
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- (d) Anyone unable to use the stairs should make themselves known during this agenda item.

2. Apologies for Absence

3. Minutes

To approve the [Minutes](#) of the Meeting held on 13 September 2023 (Minute Nos. 281 – 286) as a correct record.

4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves, their families or friends.

The Chair will ask Members if they have any disclosable pecuniary interests (DPIs) or disclosable non-pecuniary interests (DNPIs) to declare in respect of items on the agenda. Members with a DPI in an item must leave the room for that item and may not participate in the debate or vote.

Aside from disclosable interests, where a fair-minded and informed observer would think there was a real possibility that a Member might be biased or predetermined on an item, the Member should declare this and leave the room while that item is considered.

Members who are in any doubt about interests, bias or predetermination should contact the monitoring officer for advice prior to the meeting.

Part B Reports for the Regeneration and Property Committee to decide

- | | | |
|----|---|---------|
| 5. | Property Asset Strategy Refresh and Property Procedure Rules (PPR) | 5 - 32 |
| 6. | Disposal of parcels of land associated with Bridge Road car park, Sheerness | 33 - 40 |
| 7. | Forward Decisions Plan | 41 - 42 |
| 8. | Exclusion of the Press and Public | |

To decide whether to pass the resolution set out below in respect of the

following items: That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3.

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).

9. Central Stadium, Sittingbourne

43 - 90

Issued on Monday, 6 November 2023

The reports included in Part I of this agenda can be made available in alternative formats. For further information about this service, or to arrange for special facilities to be provided at the meeting, please contact **DEMOCRATIC SERVICES** at democraticservices@swale.gov.uk. To find out more about the work of this meeting, please visit www.swale.gov.uk

**Chief Executive, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT**

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Regeneration and Property Committee	
Meeting Date	14 th November 2023
Report Title	Property Asset Strategy and Property Procedure Rules
EMT Lead	Emma Wiggins, Director of Regeneration and Neighbourhoods
Head of Service	Joanne Johnson, Head of Regeneration, Economic Development and Property and Interim Head of Planning
Lead Officer	David Johnson, Interim Property Advisor Kieren Mansfield, Strategic Programme and Assets Manager
Classification	OPEN
Recommendations	<ol style="list-style-type: none"> 1. Members approve the draft Property Asset Strategy and Property Procedure Rules. 2. Members approve the principles set out at Appendices 3 and 4 attached to the strategy, as a basis to consult on the development of new policies in respect of Asset Review and Disposal and Community Asset Transfers

1 Purpose of Report and Executive Summary

- 1.1 Swale Borough Council's adopted Property Asset Strategy covers the period 2017-2020 and therefore requires updating. This report presents a new, draft Property Asset Strategy, alongside a set of Property Procedure Rules for consideration.
- 1.2 The document also presents a set of draft principles, recommended as a basis to consult on new Asset /Disposal and Community Asset Transfer policies, the final drafts of which would then be considered by a future meeting of the Regeneration and Property Committee.

2 Background

- 2.1 The Council owns a wide-ranging portfolio of property assets, which broadly fall within three categories; the operational estate (supporting the delivery of services), the community estate and the commercial estate.
- 2.2 Efficient and effective management of the Councils existing and any future property assets has significant implications for the Council, in respect of both service delivery and its medium-term financial strategy, and for the communities that we serve.

- 2.2 An up-to-date Asset Strategy is recommended to set out the key principles that will guide the Council's management of this property portfolio, to
- ensure that the management of its assets is aligned with council strategies and policies.
 - create a strong basis for delivery of services for residents and stakeholders,
 - improve utilisation.
 - secure minimum expenditure with maximum receipt while providing the best quality assets possible within resources.
 - deliver strong, positive management of the Council's assets, fiscally, physically and from a net carbon zero perspective.
 - have clear agreements relating to third party use or occupation of the Council's Property Assets.
- 2.3 One of the key principles set out in the draft strategy is the recommendation to establish a Corporate Landlord approach to the management of the Council's Property Assets. The establishment of an officer property review group would seek to ensure that property matters are considered and informed by the input from across the Council's relevant service areas. This would support better informed recommendations to Members and decisions and a consistent approach to management of the property portfolio.
- 2.4 The draft strategy also recommends initiating and undertaking a continuing asset review program which will consider all assets the council holds and identify those which are surplus against criteria set out in a Disposal/Asset Review Policy. The draft principles for a revised policy are set out at Appendix 3 attached to the strategy.
- 2.5 For disposals that will generate capital receipts for the Council, it will be important to consider options for those where there is the potential to enhance values. At present no budget is set to support taking such steps but this might be considered for the future, with the potential to increase capital receipts for the Council.
- 2.6 Community Asset Transfers also provide a route for the disposal of assets, where appropriate, to support and empower communities. The draft principles for a new Community Asset Transfer Policy are set at Appendix 4 attached to the strategy, reflecting both the opportunities and risks that are involved.
- 2.7 The development of these policies, and in particular that for Community Asset Transfers, will require wider consultation with the community and stakeholders.
- 2.8 Accompanying the Strategy are a set of revised, draft Property Procedure Rules. These are intended to set out draft procedures for the acquisition, disposal and management of property assets held by the Council. These Rules would apply to all property assets in which the Council has, or proposes to have, a freehold or leasehold interest, including licenses, concession, tenancy at will and hire agreements.

- 2.9 The implementation of these rules will be governed by the Council’s constitution and the adopted Scheme of Delegation should be read in conjunction with them.

3 Proposals

- 3.1 That the draft Property Asset Strategy and the accompanying Property Procedure Rules are approved, in relation to the future management of the Councils property portfolio.
- 3.2 Members approve the principles set out at appendices 3 and 4 attached to the strategy, as a basis to consult on the development of new policies in respect of Asset Review and Disposal and Community Asset Transfers.

4. Alternative Options

- 4.1 Not to adopt the strategy and procedure rules as proposed. This is not recommended, as the current strategy expired three years ago and a refresh is required in light of the Council’s changed position since it was first adopted in 2017.

5 Consultation Undertaken or Proposed

- 5.1 It proposed that two key policies relating to asset review and disposal and Community Asset Transfer are subject to wider consultation, with a final draft of the policies to be considered by a future meeting of the Regeneration and Property Committee.

6 Implications

Issue	Implications
Corporate Plan	One of the key aims of the Property Asset Strategy is to ensure that the management of the Council’s property assets is aligned with council strategies and policies. The nature of the Property Assets is such that it will impact across most, if not all corporate priorities.
Financial, Resource and Property	<p>The Councils property portfolio provides financial challenges but also opportunity to secure increased income, capital receipts and investment that generates medium term savings. By setting a clear framework and re-establishing a Corporate Landlord approach, the Strategy will assist in realising these benefits.</p> <p>Whilst seeking to secure minimum expenditure with maximum receipt, the Property Asset Strategy points towards the potential to make some investment in steps that enhance values and the financial benefit to the Council from a disposal, however no specific budget is currently identified for this.</p>

	The strategy will also help make clearer the basis upon which property related decisions will take account of wider community and other considerations and the financial implications of doing so.
Legal, Statutory and Procurement	Decisions and processes in relation to the Councils property assets would be governed not only by an adopted Property Asset Strategy and the associated Property Procedure Rules, but also by the Council's constitution and the adopted Scheme of Delegation.
Crime and Disorder	None identified at this stage. Poorly managed and vacant property does present increased risks in relation to anti-social behaviour, impacting on places and communities.
Environment and Climate/Ecological Emergency	In driving towards successfully implementing the council's declaration to be carbon neutral in service delivery and as a borough, Council owned property must form a central role. The Council's premises and estate is a large contributor to our carbon footprint, and it will be an important consideration in reaching targets.
Health and Wellbeing	None identified at this stage, although the community benefits of some of the Council's property assets are significant and contribute to well-being within the Borough. Effective management promoted through the Strategy and Procedure rules will support having a more resilient and sustainable portfolio of community property assets.
Safeguarding of Children, Young People and Vulnerable Adults	None identified at this stage
Risk Management and Health and Safety	None identified at this stage
Equality and Diversity	Many of the Council's Property Assets are important to residents and communities. The community impacts (including issues relating to equality and diversity) of decisions taken in respect of individual assets will need to be considered on each occasion and will form part of the proposed asset review process.
Privacy and Data Protection	None identified at this stage.

7 Appendices

- 7.1 Appendix I - Draft Property Asset Strategy and associated appendices
Appendix II – Draft Property Procedure Rules

8 Background Papers

8.1 None

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Property Asset Management Strategy

1. Introduction

Property is intrinsic to the council's everyday functions. It touches everything that the Council does and the way in which residents access and experience services, both directly and through other organisations. Property forms the basis of the council's fixed assets and potentially accounts for both substantial income and considerable expenditure.

The council therefore needs a strong and positive strategy with which to deal with its property assets, in order to: -

- ensure that the management of its assets is aligned with council strategies and policies.
- create a strong basis for delivery of services for residents and stakeholders,
- improve utilisation.
- secure minimum expenditure with maximum receipt while providing the best quality assets possible within resources.
- deliver strong, positive management of the Council's assets, fiscally, physically and from a net carbon zero perspective.
- have clear agreements relating to third party use or occupation of the Council's Property Assets.

This strategy sets out the key principles that will guide the Council's management of its property portfolio and will assist the council in taking a holistic and proactive overview in managing its property assets.

In seeking to ensure effective implementation, the Asset Management Strategy seeks to place property considerations at the heart of all of the Council's operations. It will become an intrinsic part of planning service delivery, generating income and supporting better engagement with residents.

To deliver, effective engagement and understanding between services is required, with a view to creating a single vision of strategic property asset management which will enable better delivery of services.

The strategy and associated policies and procedures will also provide direction and clarity on what happens when a property asset is no longer required for its current use. This will include considering re purposing, working with stakeholders to identify positive alternative uses or looking at options as to how best dispose of an asset to optimise a capital receipt.

1.1 The Challenges

Property has a substantial influence on how we go about achieving the aims of the Corporate Plan, in both the short and long term, and is a key consideration in both service planning and financial strategy.

We are a forward thinking, ambitious council and whilst the developments we have invested in have helped to drive the Council's ambitions forward, the legacy of the pandemic, the pressure on public finances and the current cost of living crisis provide substantial challenges.

Whilst property assets can help drive income generation, many of our buildings are beyond their economic life or represent challenges in terms of maintenance due to their listed or heritage status. The need to invest in new facilities in an era of austerity, has resulted in a large backlog deficit which needs to be addressed. The aim is to create an estate of a standard that reflects the needs and meets the requirements of our residents and our services.

Climate change is also a huge challenge, which the Council has placed significant emphasis upon. In driving towards successfully implementing the council's declaration to be carbon neutral in service delivery (by 2025) and as a borough (by 2030), Council owned property must play a central role. Our premises and estate is a large contributor to our carbon footprint and it will be an important consideration in reaching our targets.

The Asset Management Strategy builds on existing good practice and demonstrates how the council will utilise property to support the aims of the Corporate Plan. It does so by categorising assets and setting a framework for the review of these as follows:

- The Operational Estate
- The Community Estate
- The Commercial Estate

2 What the Council's estate looks like

2.1 Operational Estate

Our operational estate includes assets that are held and occupied for the direct and indirect delivery of services. These are made up of:

- Core Operational Assets – these enable the council to deliver core services to residents, for example, offices and depots.
- Other Operational Assets - this includes assets which facilitate wider service delivery, but for which the Council has either no statutory or direct delivery responsibility. Examples include a number of leisure properties.

There are many challenges facing our operational estate due to its age, fabric and condition, which represent increased cost and health and safety risks. Due to the change in working practises and digital innovations many of the operational assets

are underutilised and we do not occupy these properties efficiently. Many are also near the end of their useful life or poorly performing in terms of carbon emissions due to ageing plant and poor insulation. It is also an area in which the Council is making investment, notably through the acquisition of property to help meet demand for temporary accommodation.

2.2 Community Estate

We have a unique mix of Community assets ranging from halls and community centres to a museum and a skate park. These properties are held on a mixture of short and long leases, with some being the benefit of a Community Asset Transfer (CAT).

The Council's Community Asset Strategy has been the basis for these transfers and seeks to empower community groups and protect assets, with governance to require business case and financial planning before an asset is transferred. Successful transfers have generated a number of benefits for the community and for the Council. However, this has not always been the case, with management issues or difficult economic circumstances meaning resources have been required to provide additional support, with a risk of assets returning to the council which would present capital or reputational risk. This should be considered in terms of the effectiveness of community asset transfers moving forward.

2.3 Commercial Estate

The Council currently has in its ownership a range of leased assets which would be classed as commercial property. These assets are a mix of retail premises, commercial leisure, industrial, offices and a variety of ancillary commercial uses such as kiosks and advertising hoardings. The net annual rental income of these assets is £2,019,883.

Our commercial property portfolio is exceptionally top heavy with a number of key property assets being responsible for the majority of this income.

3 Aims of the Asset Strategy

The aims of the Asset Strategy are to:

- Make it a priority that the Council only retain land and property where it makes strategic or financial sense to do so. This should be to deliver services in line with corporate priorities, to generate income, to provide a return on investment, to enable regeneration or to provide social value.
- Reduce the carbon emissions of the estate to as low as practicable and maximise the use of land, the estate and investments to offset remaining emissions and increase biodiversity.
- Ensure that all the retained **operational estate** is used efficiently and effectively to deliver or support the delivery of good and efficient public services.

- Use the **Community Estate** to deliver social value, where it makes sense to do so. This needs to be judged in a consistent fashion, through the development of a social value calculator based on measurable metrics to ascertain the level of any rent subsidy provided by the council.
- To continue to make socially productive use of land and property and build community wealth by means of asset transfer and ensure that transferees are supported and educated to protect those assets.
- Maximise income generation from the **Commercial Estate** and Investment Portfolio, to support the Council's direct services and the medium-term financial strategy.
- Manage our heritage assets in a proactive way.
- Use Council property assets to support the delivery of regeneration priorities in Swale, working with partners and other landowners, where it makes sense to do so.
- Undertake a rolling asset review program to identify surplus assets that do not meet the above criteria for disposal that generate vital capital receipts as well as make savings on maintenance, running and holding costs.

4. Delivery

4.1 Key principles

The Operational Estate will be managed through a Corporate Landlord Model, acknowledging that Council property is a corporate resource. This will require co-operation and resource committed to an officer property review group. This will ensure that the right internal stakeholders have input into recommendations to Members and decisions taken under delegated authority, in the context of the Council's strategic priorities and objectives. A draft terms of reference is found at appendix 2.

We require a complimentary financial framework that reflects the need for budget centralisation, so that asset related expenditure is strategically allocated, easily identifiable and managed by the Corporate Property Team.

We will ensure that our estate supports the wider regeneration aspirations of the Council and provides an important contribution in the development of any overarching Regeneration Strategy.

Property decisions will be made in accordance with the Council's constitution and defined policies and procedures in a consistent and transparent manner and comply with legislative requirements such as the Local Government Act 1972.

To enable decisions to be informed we will maintain a complete and accurate property register.

All tenants should have an appropriate occupational agreement, which should be actively managed. To assist in achieving this Property Procedure Rules have been developed which set a uniformed approach to all leasing arrangements.

We must ensure that all properties within the portfolio are statutorily compliant.

All income generating property should be properly maintained and in a tenantable condition and a Planned Maintenance Program based on current stock condition be resourced and implemented appropriately.

Use of property space should be maximised to ensure that void periods are minimised.

The environmental impact of assets will be minimised, as far as is practical and affordable.

We will carry out a continual asset review program which will consider all assets the council holds and identify those which are surplus against the criteria set out in the Council's Disposal/Asset review Policy.

We will consider options for surplus assets, where there is opportunity to enhance value, support regeneration priorities and resource steps which support this in advance of disposal, where it makes financial sense to do so.

4.2 Immediate Action

The Director for Regeneration and Neighbourhoods will drive the implementation of the Asset Strategy

An officer Property Review Group will be formed with new terms of reference and report to the Departmental and Executive Management Teams, and in turn the relevant committees on the delivery of the Asset Strategy and key strategic property decisions.

A Corporate Landlord model will be established, and an asset review program of all the Council's Assets will be undertaken.

The asset review will enable the identification of assets that no longer meet the Council's key strategic priorities and corporate objectives. This will inform recommendations for how we can achieve best overall value for the Council, via disposal and community asset transfer.

The Disposal/Asset Review and Community Asset Transfer (CAT) policies will be used to guide this activity. The recommended principles for updating these are found at Appendices 3 and 4, but wider consultation with the relevant internal and external stakeholders, in particular in relation to the CAT policy, will be undertaken to inform these.

Appendix 1: Summary of Property Assets

Asset type	No of Assets
Operational Assets	
Car Parks (pay & display)	26
Car Parks (other)	21
Administrative offices	3
Sports Hall and Pools	5
Recreation Grounds, Parks, Open Spaces	119
Sports Pavilion's	3
Country Parks (buildings)	2
Quayside	1
Seafront	11
Housing (temporary accommodation)	3
Cemetery Land, Chapels and Stores	9
Public Monuments/Memorials	5
Public Clocks	9
Public Conveniences	12
Air Quality station	1
Gypsy Site	1
Community Assets	
Tenanted Community & Leisure assets	36
Allotments	10
Heritage Assets	7
Commercial Assets	
Investment Properties	19
Shops	8
Offices	3
Depot	1
Markets	3
Agricultural/Grazing Land	4
Identified as surplus land and buildings	20

Information about the Council's property assets can be found at [Performance and Transparency - Transparency \(swale.gov.uk\)](https://www.swale.gov.uk/performance-and-transparency)

Appendix 2: Property Review Group – Terms of Reference

Purpose

The purpose of the property review group will be to provide officer input from across the Council, into all recommendations to Members and decisions taken under delegated authority for all property and related matters. Its role is consultative and its membership will be drawn from those departments which have an interest in or use of the Council's property assets. The property review group will also promote a corporate landlord mindset and approach across the paid service of the Council.

Property Activity

To consider all changes in occupational arrangements of the operational estate.

To monitor the ongoing asset review process and inform recommendations and decisions for disposal, redevelopment, and retention of assets.

To provide a forum for consideration and agreement of cross departmental uses of assets to enable a cohesive approach to the management of SBC's portfolio.

To receive updates and monitor the Council's PPM processes and capital programs relating to its property assets.

To review the commercial estate's key performance indices included rent roll, rent arrears and progress of Lease Renewals and rent Reviews.

To receive drafts, and comment on all committee reports relating to SBC's property holdings.

Core Membership

- Director Regeneration & Neighbourhoods (Chair)
- Head of Regeneration, Economic Development and Property and Interim Head of Planning
- Head of Housing & Community Services
- Head of Environment and Leisure
- Head of Finance & Procurement
- Leisure & Technical Services Manager
- Strategic Programme and Assets Manager
- Strategic Assets Manager
- Estates Officer

Attendance will be required from other services areas, based on the agenda for the meeting.

Conduct of the meeting

Meetings will generally be held bi-monthly, in advance of the relevant committees. Online input may also be required between meetings, where a consideration is more urgent.

In setting the agenda for a meeting Members should raise any items they wish to be considered through the Chair of the Regeneration & Property Committee, who will advise the Chair of the Property Review Group of items for consideration.

The agenda and any papers be circulated at least 3 days prior to a decision deadline and/or meeting wherever possible.

Notes of any meetings will be circulated within 2 weeks of the meeting, with actions agreed.

Officers named for actions in the notes will update the group on progress against these tasks, either at the next meeting or in advance, as required

Reporting

To present an annual report to EMT detailing the commercial estate's performance indices and progress of ongoing asset review.

Appendix 3 Principles for a Disposal/Asset Review Policy.

The Council's disposal policy will reflect the aims of this strategy in respect of continual asset review, rationalisation and streamlining of the property portfolio. It is key that the Council continually assesses the financial viability of its assets to guide disposal decisions, but also takes account of the wider set of considerations. The continual review of the Council's Assets ensures the efficient and effective management of the Council's property portfolio, maximising value for money, contributing to the Council's long-term goals, and promoting economic development.

Criteria for Disposal

The following criteria shall be considered in determining the potential disposal of an asset:

Financial Viability

The financial viability of retaining or disposing of an asset will be assessed. This includes a thorough evaluation of the ongoing maintenance and whole life costs, potential income generation, the projected market value of the asset and whether this can be enhanced in advance of any disposal.

Long-term Council Goals

The alignment of the asset with the Council's strategic goals will be considered. These goals may include service delivery objectives, community needs, and the Council's sustainability targets.

Community Benefit

The potential community benefit of retaining or disposing of an asset will be assessed. This could include the potential for the asset to be used for community facilities, affordable housing, or other community or operational use.

Regeneration

The potential for the asset to contribute to economic development or wider regeneration in the borough will be considered. This could include the potential for job creation, business development, and the promotion of economic growth.

Legislative Framework and Government Guidance

This policy will comply with the relevant UK legislation and Government guidance, including but not limited to:

- The Local Government Act 1972: which gives local authorities the general power to dispose of land held by them in any manner they wish.
- The Localism Act 2011: which introduced the "General Power of Competence" providing local authorities with greater freedom to act in the best interests of their local communities.
- The Ministry of Housing, Communities & Local Government's (MHCLG) Non-Statutory Guidance on Disposal of Land by Local Authorities (February 2020):

which provides guidance on achieving best consideration for the disposal of assets.

The Council's Property Asset Disposal Policy will ensure that decisions regarding the disposal of Council-owned assets are made in a transparent and accountable way, maximising the financial, social and economic benefits for the borough and its residents.

Surplus Properties

An asset shall be deemed to be surplus to the Council's requirements if one or more of the following apply:

- (a) It makes no contribution to the delivery of the Council's services,
- (b) It has no viable potential with regard to the delivery of the Council's Corporate Plan
- (c) An alternative and more cost effective service delivery site has been identified.

A site is deemed to be under-used if:

- (a) The income it generates is below that which could be achieved from one or more of:
 - (i) An alternative use
 - (ii) Disposing of the site and investing the income
 - (iii) Intensifying the existing use, mindful of the viability of doing so
- (b) A significant part of the site is vacant and is likely to remain so for the foreseeable future and has no potential with regard to the delivery of the Council's Priorities.
- (c) The cost of retaining the asset outweighs its likely income generation

Appendix 4 Principles for Community Asset Transfer Policy

Community Asset Transfers (CATs) can provide significant benefits to both local councils and community groups by empowering communities, promoting local stewardship, and potentially reducing expenditure for the council. However, the process needs careful handling, particularly when it has resulted in subsidy from the Council to the community group and ultimately does not absolve the council from repair obligations.

The CAT policy should consider the following points:

1. **Risk Management:** Identify potential risks and develop a risk management strategy. This could include financial risks, the risk of asset mismanagement, and the risk of community conflict. A comprehensive risk management strategy will help to mitigate these risks and ensure the long-term sustainability of the asset transfer.
2. **Community Engagement:** Engage the wider community in the decision-making process for asset transfers. This can help to ensure local buy-in and support and may also open up additional sources of support and funding or alternative transferees.
3. **Clear Communication:** Be transparent about the nature of the transfer and its potential implications. Ensure community groups understand that they are receiving a valuable asset that equates to a subsidy and what their responsibilities will be, particularly regarding property maintenance and repairs. This can prevent misunderstandings and mismanagement down the line.
4. **Long-term Financial Planning:** Community groups will be required to develop robust long-term financial plans that account for ongoing maintenance and repair costs. This might involve setting up a sinking fund for future repairs or seeking external funding sources.
5. **Legal and Contractual Clarity:** Ensure that the legal agreements surrounding the asset transfer are clear about who is responsible for what specifically regarding outgoings and repair obligations.
6. **Regular Monitoring and Evaluation:** Implement a monitoring and evaluation system to track the performance and impact of the transferred assets. This will allow the council to intervene if necessary and provide additional support to the community group. This will also prepare the Council should it become clear that the asset is likely to fall into disrepair or be mismanaged.
7. **Exit Strategy:** Every transfer should have a clear defined exit plan in place for what happens if the community group is no longer able to or have failed in managing the asset. This might involve transferring the asset to another group, selling it, or returning it to council control.

Community Asset Transfers will place a resource burden on the Council, above and beyond the required community engagement around an opportunity and the management of any transfer. The extent of this will depend on the capacity of interested community organisations to understand the obligations that come with a

particular Community Asset, prepare a sufficiently robust business case to satisfy the Council and subsequently manage the asset successfully.

To pro-actively pursue Community Asset Transfers the Council may also need to consider resourcing support and training for community groups to ensure they can build and present a sustainable business model and manage and maintain the assets effectively. Whilst some external funding may be available to support this on occasion, no existing resource is currently available to support this.

Where a business case is unsustainable, or progress towards a business case is not within appropriate timeframes, Council Officers will need to make recommendations based on property, strategic and financial considerations. This would maintain the focus on minimising risk and maintaining the long-term viability of the Councils Assets, which is key to supporting the wider delivery of services.

Swale Borough Council

Draft – Property Procedure Rules November 2023

Introduction

Property Procedure Rules intend to set out adopted procedures for the acquisition, disposal and management of property assets held by the Council through a Corporate Landlord Model.

1.1 Scope

These Rules apply to all property assets in which the Council has, or proposes to have, a freehold or leasehold interest, including licenses, concession, tenancy at will and hire agreements.

In considering all property matters, Council Members, employees and appointed Agents will be aware of and comply with these rules.

All property assets controlled by Swale Council are considered to be corporate assets and are managed corporately under the Property Asset Strategy

- to deliver services in line with corporate priorities,
- to generate income
- to provide a return on investment,
- to enable regeneration or
- to provide social value.

The implementation of these Rules is supported by the Council's adopted Scheme of Delegation and should be read in conjunction with them.

Adherence to the Rules will:

Fulfil Swale Borough Council's responsibilities under S123 of the Local Government Act 1972 and S1 of the Localism Act 2011.

Provide consistency in the application of the Council policies and procedures and in the management of its property assets.

Ensure that all property transactions are completed only if there can be clear benefit demonstrated for the Council or the wider Borough, or if required to by statute or for the provision of effective estate management.

Provide a clear rationale for retaining an interest in a property asset including performance, return from investment and community benefit.

Ensure a joined-up, systematic, corporate approach to property asset planning, acquisition, disposal, management, maintenance and capital investment.

Deliver and maintain high quality property records

Ensure no property asset (or part) is occupied without appropriate legal documentation authorising the occupation

1.2 Definitions

“Property Asset Strategy”

means the adopted document that sets out the strategic approach to the Council’s complete property portfolio and management of Swale Borough Council’s property assets.

“Concession”

means a type of occupation arrangement granting a benefit to provide a defined activity or trade from the Council’s property.

“Disposal”

means the sale or exchange for other property asset(s) of any of the Council’s property asset(s) that has been declared an “asset for sale” or a “surplus asset” as defined by Chartered Institute of Public Finance Accountants (CIPFA) but also includes the leasing-out of Council-owned property and the granting of easements and rights-of-way. Disposal includes leaseholder enfranchisement.

“Freehold”

means the permanent tenure (absolute or possessory) of land with or without buildings.

“HRA”

means the Housing Revenue Account.

“Lease”

means a contract granting exclusive use or occupation of a property asset for a specified period in exchange for a specified rent.

“Leased-In”

means a property asset or part of a property asset that the Council leases in from an individual or organisation.

“Leased-Out”

means a property asset or part of a property asset that the Council lease out to an individual or organisation.

“Licence”

means a permission to use a property asset for an agreed purpose that does not confer any interest (such as exclusive possession) in the property. A licence may include (but is not limited to) oversailing licences, investigation licences and building works licences.

“Market Value”

Means the estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arm’s length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion.

“Officer Property Review Group”

means the Council’s officer group, with terms of reference that covers strategic recommendations or decisions within delegations for corporate assets.

“Operational Procedures”

means those procedures and best practice in place at the relevant time, defined and employed by Property Services.

“Property Asset”

means land and/or buildings and all improvements thereon or any right in on or over the same.

“Property Transaction”

means the transfer of rights in a property asset between two or more parties (for example but not limited to the transfer of a freehold interest, the creation of a leasehold interest or the granting of a licence).

“Social Return on Investment (SROI)”

means a framework for measuring and accounting for a broader concept of value that seeks to reduce inequality and environmental degradation and improve wellbeing by incorporating social, environmental and economic costs and benefits. The methodology is defined by the Cabinet Office (2009): A Guide to Social Return on Investment, Society Media, London or other updated guidance.

“Surplus Property”

means a property asset that is not required to meet the current or future programme or operational requirements of the Council and that has been declared by the Council or its delegated authority to be a “surplus asset” or an “asset held for sale” as defined by CIPFA.

“Valuation”

means a valuation by an appropriately qualified (internal or external) valuer.

1.3 Management of Property Assets

The Head of Service must effectively manage all property assets to ensure full alignment with the Council’s Property Asset Strategy.

Effective management includes (but is not limited to):

- Acquisition and disposal of freehold and leasehold property

- Agreements regarding rights of way, easements and wayleaves with statutory undertakers, public utility and telecommunications companies and adjoining property owners

- Reviewing the corporate Property Asset Management Strategy

- Agreeing Concessions with the relevant Service department

- Corporate Landlord responsibilities

- Development options and appraisals

- Lease issues such as new lettings, lease renewals, rent reviews, repairs, surrenders, assignments, sub-lettings, changes of use, alterations, dilapidations, collection of service charges and rents etc

Marketing activities in relation to Property Assets

Planning applications for marketing or development purposes

Repair and Maintenance of Property Assets

Restrictive covenants including the modification or release of restrictions in freehold titles and leases

Property valuations including asset valuations, insurance valuations, Right to Buy valuations and valuations for appropriation, balance sheet, grant application, internal rate of return, statutory subsidy, stock transfer purposes

Regular review of all Property Assets to ensure that under utilised property is managed effectively and, where appropriate, identified as potentially surplus

Any other arrangement that involves a Council Property Asset.

All Directors will agree an asset management approach for their service areas with the relevant Heads of Service, for inclusion in the corporately held asset management strategy and through their membership of the officer property review group.

The officer property review group will be responsible for delivering the corporate property Asset Management Strategy, corporate asset review programme and the prioritised capital investment in assets.

1.4 Acquisition – General

The acquisition, by any means, of a freehold interest or a leasehold interest over one year in duration requires the approval of the relevant Director and the Head of Service, unless the acquisition is:

Covered by the Property Scheme of Delegation

Vested by statutory authority

Owing to the Council acting as trustee

Made under planning and highways legislation as a condition of a planning permission or a planning obligation.

Any acquisition with a market value above that defined in the Scheme of Delegation has also to be approved by the relevant Committee.

Every acquisition must be undertaken in conjunction with the Council's Acquisitions Policy and be accompanied by the relevant Director's report that states:

the acquisition's contribution towards the provision of the Council's services and/or delivery of corporate aims

The life-cycle costs whereby the Council is able to demonstrate its ability to fund all costs (including running costs), expenses, impacts and risks and any other costs associated with the acquisition (for example allowed/required by legislation).

The report is approved by the Head of Service and the Director of Resources.

The Head of Service has approved the provisional terms for the acquisition

The Head of Service has certified that the price and terms and conditions represent value and, in most circumstances, has obtained an independent valuation.

1.5 Acquisition - Compulsory Purchase

A resolution to make a Compulsory Purchase Order must be made by the relevant Committee, following a recommendation by the appropriate Director and the Head of Service.

Compulsory purchases or purchases by agreement prior to a Compulsory Purchase Order being confirmed, are considered as acquisitions and subject to these Rules.

1.6 Acquisition - Gift

The acceptance of a gift of a Property Asset to the Council requires:

A report prepared by the Head of Service stating the purpose of the gift, the value of the Property Asset and any rights, restrictions or liabilities, including life cycle costs associated with the gift

The approval of the relevant Committee where a market value is in excess of the Scheme of Delegation threshold.

1.7 Appropriation

Any proposed appropriation of property from one purpose to another or any proposed transfer of property between the General Fund and the Housing Revenue Account, requires the approval of the relevant Director(s) and the Head of Service. Any appropriation will be in accordance with legislation and any regulations in force at the time and may be subject to Secretary of States consent and/or statutory advertising requirements.

1.8 Concessions

Where a Property Asset (or part) is to be let and the Council wants to either control an aspect of trade that is not normally part of a commercial lease or goes beyond what could be required through the planning regime or wishes to use the Property Asset for community use, the transaction must be subject to the general principles of ensuring value for money, equal treatment, non-discrimination and the obligation of transparency.

The opportunity to manage/operate a Concession with the type of restrictions set out above must be run as a tender process in accordance with the Council's Procurement guidelines.

1.9 Demolition

Demolition of any building or part of a building is not permitted without the authorisation of the Head of Service who is to ensure that the Council's Finance Team (for accounts purposes) and other appropriate officers are aware.

On completion of any demolition, the project owner must complete a “Demolition Completion Notice” and the Head of Service must undertake amendment to the rating list.

1.10 Disposal – General

The Local Government Act 1972 s123 applies to all disposals. For Section 123 purposes, a disposal includes the grant of a lease of more than 7 years or an assignment of an existing lease which has more than 7 years to run.

To ensure transparency in all property transactions, disposals or lettings to any organisation, including charitable, voluntary or not-for-profit organisations, must be on the basis of market value, with any financial assistance to be provided by way of a grant rather than reduction in the disposal terms.

The Council may occasionally wish to dispose of a Property Asset at less than best consideration, but where this is approved by the relevant committee under exceptional circumstances, the Council is potentially providing a subsidy to the new owner, developer and/or the occupier of the Property Asset such that there may be a distortion of competition. Where this occurs, the Council must ensure that the nature, recipient and amount of subsidy complies with UK Government Subsidy Control rules.

When a corporate Property Asset or part of an asset is/are becoming surplus to requirements:

The Director of the occupying department:

Must give at least 6 months notice to the Head of Service that the accommodation is no longer required and such notification should set out a reasoned justification why the site or accommodation is no longer required and define the timescale to vacate/handover

Remains responsible for all running and other costs of the property during the notice period and up to the point of disposal or transfer to another Service. (If the property is a HRA property, the property costs cannot be transferred from the HRA)

Remains responsible for ensuring vacant possession of the property prior to its transfer to the Head of Service.

On the expiry of the notice period the Head of Service will become responsible for maintaining and disposing or transfer of the property asset.

The Head of Service must prepare a report recommending whether the property is to be:

Retained for use by another service, use by a partner organisation or voluntary community sector organisation

Disposed of, or

Kept under review pending greater clarity

The Head of Service will:

Ensure that the disposal method and negotiation process are transparent and that auditable processes are followed.

Prepare a report to the relevant Committee which:

Recommends the proposed disposal and its method

Recommends the disposal mechanism to be adopted

States the disposal is for the best consideration reasonably obtainable

If valuation advice is included, uses valuation advice that has been certified by a Valuer in accordance with practice guidance issued by the Royal Institution of Chartered Surveyors

Includes the Heads of Terms (if appropriate)

Ensure no property is disposed of in any transaction unless it has been placed on the open market and advertised publicly subject to the exceptions stated below "Disposal – Off Market"

Ensure that in any competition all individuals or organisations are given equal opportunity to succeed

The relevant Committee must endorse the disposal of any interest (except where acting as trustee or under a statutory obligation). Disposals required by statute (for example but not limited to, lease extensions, enfranchisements) will be delegated to appropriate officers however in all other respects these rules must be followed

Any Property Asset owned by the Council that is identified as an Asset of Community Value (as defined by the Localism Act 2011) will be considered in accordance with the statutory framework.

Requests for an asset transfer to a community organisation may be considered in relation to the Council's Community Asset Transfer Policy (an appendix to the Property Asset Strategy).

1.11 Disposal - Auction

The appointment of an auctioneer shall comply with the Council's contract procurement rules.

A sale by auction must be openly and publicly advertised by appropriate methods in agreement with the auctioneers.

The reserve price:

Will be set by the Head of Service in consultation with the auctioneer

Must be at a figure that is not less than a valuation that complies with the s123 of the Local Government Act 1972

Should a Property Asset fail to sell at auction, the Head of Service may instruct the auctioneer to proceed with a post-auction sale, if it can be demonstrated that the Property Asset has been properly exposed in the market and disposal terms represent the best price reasonably obtainable

1.12 Disposal - By offering on the open market

An offer on the open market is to be appropriately widely advertised in the most suitable format.

The receipt and opening of tenders must be carried out in accordance with the Council's contract procurement rules.

If the Head of Service is of the opinion that an offer other than the highest should be accepted, the reason must be fully documented. For example, should a sale to a party offering a lower amount enable one of the Council's core strategic aims or provide another business opportunity of significant value to the Council.

Negotiations with any interested parties are permitted after the closing date for offers has passed, providing they are open, transparent and clearly documented. If such negotiations are considered to prejudice other persons who have made an offer, then in the interests of fairness and transparency a "call for best and final offers" should be made or the property re-marketed.

If the Head of Service considers that offers received do not represent the best price which can be reasonably obtained, then the Property Asset should be re-marketed if the reasons for not attracting satisfactory offers can be addressed or withdrawn temporarily from the market.

1.13 Disposal - Off Market

There may be instances where a disposal by way of open market sale would not achieve the best consideration reasonably obtainable. Examples include (but are not limited to) sales to a tenant, disposal to a development partner, disposal to an adjoining owner.

Such disposals are subject to a report prepared by the Head of Service, and approved by the relevant Committee, that includes:

Justification for such a disposal as being in the best interest of the Council

Written advice, including a market value, from an external registered valuer.

1.14 Insurance of Property Assets

All buildings owned by the Council are insured by the Council's corporate insurance policy. Insurance for leased-in buildings will be in accordance with the lease of those premises.

1.15 Interpretation and Review of the Rules

Issues regarding interpretation of the Rules shall be referred in the first instance to the Head of Service.

The Director of Regeneration & Neighbourhoods shall regularly review the application and effect of these Rules in consultation with the Director of Resources and shall propose such amended Rules to as he/she may consider appropriate.

1.16 Leased-Out Property

Requirements of the Local Government Act 1972 s 123 (that except with the specific consent of the Secretary of State) the Council may not dispose of land for a consideration less than the best that can reasonably be obtained other than by way of a short tenancy. A short tenancy is one not exceeding seven years.

Leased-out property must be advertised in the open market and must comply with the process set out in the Operational Procedures. However, there will be instances where letting a property on the open market would not be in the best interest of the Council. Examples include (but are not limited to) providing premises to an individual or organisation that has been displaced by compulsory purchase. In such cases officers will act with due probity, good governance and transparency.

No Property Asset (or part) shall be occupied without appropriate legal documentation authorising the occupation.

1.17 Operational Procedures

The Head of Service is responsible for developing and reviewing the Operational Procedures to assist with the delivery of these Rules. and shall be reviewed as appropriate. In the event of any conflict with operational procedures, the Rules will always take precedence.

1.18 Record Keeping

All Council officers must keep accurate electronic records of their compliance with the Rules.

Records are to:

- Include notes of interviews, negotiations and valuations

- Be retained in accordance with the periods set out in the Council's Records Policy?

- Where it is necessary to keep original paper documents, such as a signed documentation, a hard copy file must be maintained.

1.19 Valuations

In preparing for the disposal or acquisition of a Council interest in property, the Head of Service shall ensure that a formal, written valuation report is provided for the property in question.

Where a disposal or acquisition has not reached completion within 6 months of the date of the corresponding disposal valuation report, an updated valuation report shall be prepared.

Regeneration and Property Committee	
Meeting Date	14th November 2023
Report Title	Disposal of parcels of land associated with Bridge Road car park, Sheerness
EMT Lead	Emma Wiggins, Director of Regeneration and Neighbourhoods
Head of Service	Joanne Johnson, Head of Regeneration, Economic Development and Property and Interim Head of Planning
Lead Officer	David Johnson MRICS Interim Property Services Manager
Key Decision	No
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. That the parcels of land be declared surplus and disposed of with the previously agreed car park land to EKC Group. 2. That authority is delegated to the Head of Regeneration, Economic Development and Property and Interim Head of Planning in consultation with the Head of Mid Kent Legal Services negotiate terms for the disposal of the land and to complete the necessary legal formalities.

1 Purpose of Report and Executive Summary

- 1.1 It is government policy that local authorities should dispose of surplus and under-used land and property wherever possible. This report recommends the freehold transfer of parts of the Council owned estate known as land associated with Bridge Road car park, Sheerness (Appendix 1) in addition to the car park already approved for disposal (Appendix 2)
- 1.2 The disposal comprises various pieces of land of which the Council is the freeholder which in part are currently maintained by EKC Group as part of Sheppey College and would otherwise be left with no beneficial use if they were not transferred.
- 1.3 The land proposed for disposal is required for delivery of the Council's successful LUF bid "Sheerness Revival" which includes the Sheppey College extension project.

2 Background

- 2.1 The Department for Levelling Up, Housing and Communities is providing the funding via the Levelling Up Fund (LUF) for the "Sheerness Revival" programme and the constituent Sheppey College extension project. This funding was awarded on 19 January 2023, with the grant determination letter signed in May 2023.

- 2.2 Swale Borough Council is working in partnership with the owner and operator of Sheppey College, EKC Group, to extend their existing further education facility, situated adjacent to the west of the Beachfields site (which is the main focus of the LUF investment). The 750 sqm extension will deliver new further education and junior college teaching facilities alongside additional adult and community learning by providing additional capacity.
- 2.3 EKC Group own the existing College site and the Council own the land adjacent to the east (part of the Beachfields site). Cabinet agreed in March 2022 to transfer the virtual freehold of part of its own land – comprising existing car parking – to EKC Group to facilitate the proposed extension, as part of its match funding contribution should the bid be successful .
- 2.4 During negotiations and drafting of legal agreements several small pieces of land associated with the originally agreed car park transfer have been identified as being required for / beneficial to the project or already maintained by the EKC Group. These pieces of land form landscaped areas between the College’s existing freehold and the adopted highway.
- 2.5 Parts of the College building and associated open areas are constructed on these parcels of land already and their ownership needs to be regularised.
- 2.6 Whilst the value of these parcels of land themselves is highly unlikely to exceed the threshold for the disposal to be determined by Committee (£10k), taken together with the originally agreed car park land, it is possible that the combined value may have increased by more than this threshold. It was therefore considered prudent to bring the decision to Committee.

3 Proposals

- 3.1 That the parcels of land be declared surplus and disposed of with the previously agreed car park land to EKC Group.
- 3.2 That authority is delegated to the Head of Regeneration, Economic Development and Property and Interim Head of Planning in consultation with the Head of Mid Kent Legal Services negotiate a terms for the disposal of the land and to complete the necessary legal formalities.

4 Alternative Options

- 4.1 An alternative option would be to retain the parcels of land in the Council’s ownership and not include them in the transfer to EKG Group. This option has been discounted as it would hinder the delivery of LUF bid and would leave deminimus pieces of land of little to no value to the council underused.
- 4.2 A further option proposed would be to lease the additional pieces of land to EKG Group on a short-term basis. While this would allow the development to be brought forward it would increase legal costs and process for no gain to the Council or College. This option has been discounted.

5 Consultation Undertaken or Proposed Considered and Rejected

5.1 There have been no external consultations on this proposal.

6 Implications

Issue	Implications
Corporate Plan	The proposal supports renewing local democracy and making the Council fit for the future by disposing of surplus land and reducing ongoing liabilities and making an asset available for the successful delivery of the Council's LUF bid and the benefits of that to local residents
Financial, Resource and Property	The proposal will reduce the Council's future maintenance liabilities in relation to maintaining landscaped areas which are its responsibility.
Legal, Statutory and Procurement	Legal will be required to the draft disposal contract agreement in consultation with Property. This will be a minor addition to the originally agreed work related to the car park transfer.
Crime and Disorder	None identified at this stage.
Environment and Climate/Ecological Emergency	None identified at this stage.
Health and Wellbeing	None identified at this stage.
Safeguarding of Children, Young People and Vulnerable Adults	None identified at this stage.
Risk Management and Health and Safety	The Proposal reduces the council's risk in terms of holding an asset which is open to public access.
Equality and Diversity	None identified at this stage.
Privacy and Data Protection	None identified at this stage.

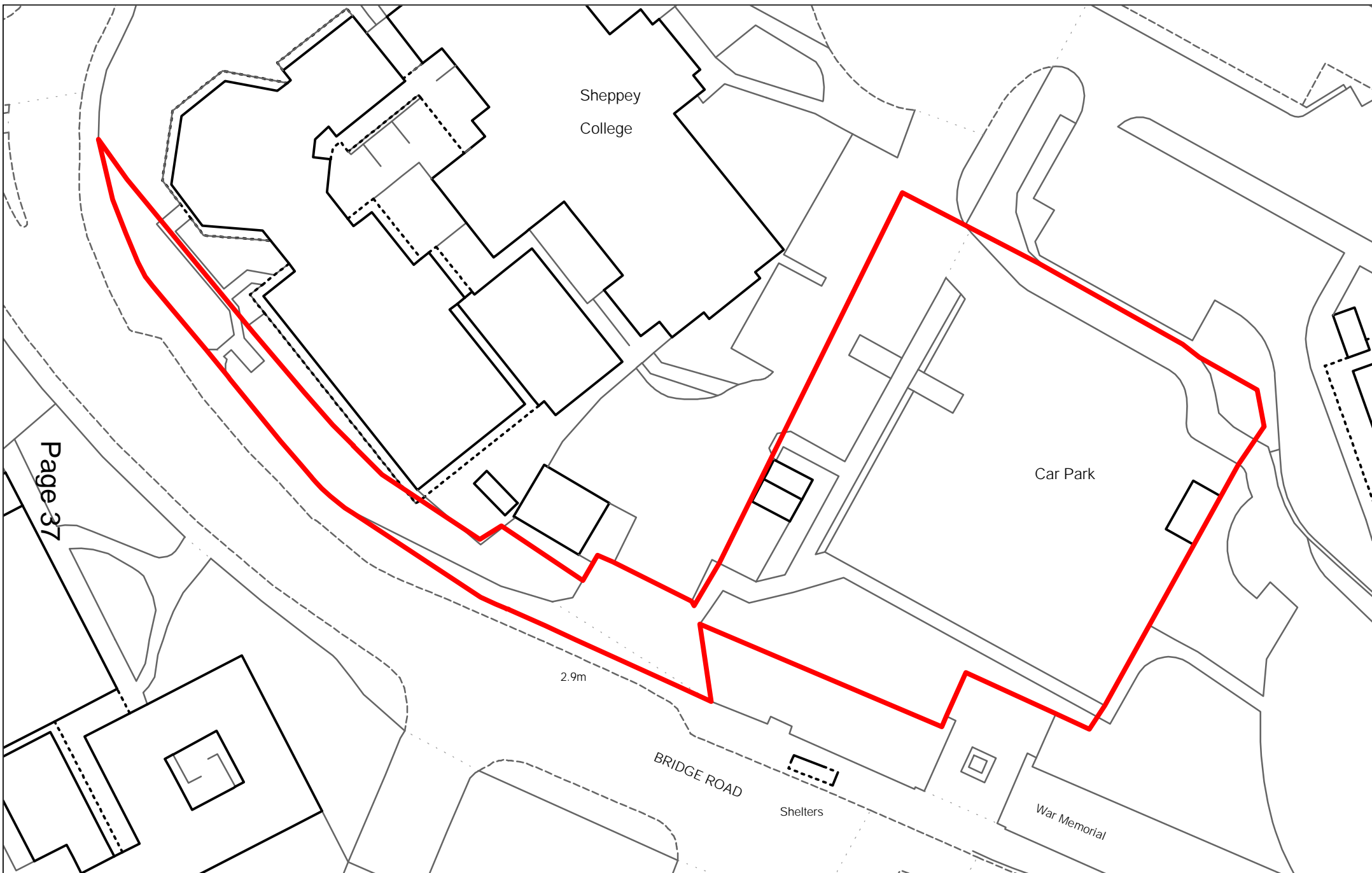
7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix 1: Plan
- Appendix 2: Plan

8 Background Papers

[Minutes](#) of the 16 March 2022 Cabinet meeting (701)



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**Bridge Street Car Park
Bridge Road, Sheerness,
Kent ME12 1RH**

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Sheppey
College

Car Park

2.9m

BRIDGE ROAD

Shelters

War Memorial

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Bridge Road, Sheerness,
Kent, ME12 1RH**

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Regeneration and Property Committee Forward Decisions Plan

Report title, background information and recommendation(s)	Date of meeting	Open or exempt	Lead Officer and report author
Memorial Bench Scheme	18 January 2024	Open	Head of Service: Martyn Cassell Report author: Jay Jenkins

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