

East Herts Council Executive Report

Date: 11th February 2025

**Report by: Cllr Carl Brittain, Executive Member for
Financial Sustainability**

**Report title: Capital Receipts Programme – Authority to Dispose
of Assets by Sale**

**Ward(s) affected: Bishop’s Stortford North (recommendation
A), Buntingford (recommendation B) and Hertford Castle
(recommendation C)**

Summary

This report identifies assets for disposal and seeks approval for disposal by the most appropriate means.

RECOMMENDATIONS FOR DECISION: That:

- (A)** in order to expedite the disposal of the Northgate End residential and commercial block, the entire freehold be sold to a sole purchaser with authority to complete the disposal for best consideration delegated to the Head of Housing, Health and Property;
- (B)** the freehold of Layston Court Gardens, Buntingford be disposed of for best consideration, having regard to the council’s chartered surveyor’s valuation, removal of revenue liabilities the safeguarding the council’s interests in decisions over future use, to Buntingford Town Council with authority to complete the disposal delegated to the Head of Housing, Health and Property;
- (C)** the freehold of land at West Street (known as Hertford Football Club) be disposed of to the existing long leaseholder, subject to an acceptable disposal price and terms being negotiated, having regard to an independent valuation to which both parties would consent, the removal of revenue liabilities for the council and the

safeguarding the council's interests in decisions over future use, with authority to proceed to disposal with the negotiated price and terms delegated to the Executive Member for Financial Sustainability, acting in consultation with to the Head of Housing, Health and Property.

1.0 Proposal(s)

- 1.1 The report recommends expediting the disposal of the residential and commercial properties at Northgate End (known as flats 1-15 Limekiln Lane and 1 Link Road respectively) by means of sale of the entire freehold to a single purchaser. This would remove the considerable risk of the council continuing to be unable to sell the units on an individual basis and thus not being able to realise a receipt which could be used to avoid borrowing for waste vehicle acquisition. The disposal on this basis, as discussed in this report, is predicated on the council gaining planning consent to replace the requirement for onsite affordable housing provision with a commuted sum that could be used at another site to provide social rent housing and/or temporary accommodation to minimise the use of bed and breakfast accommodation for homeless people.
- 1.2 The report also recommends freehold disposal of Layston Court Gardens to Buntingford Town Council for the best consideration following negotiation between the two parties based on the council's red book valuation of the land and consideration the council's current ongoing revenue liabilities that would be removed by the disposal.
- 1.3 The report recommends freehold disposal of land at West Street, Hertford to the existing leaseholder on the basis that it would only proceed if (a) the council were able to negotiate an acceptable price, having regard to an independent valuation to which both parties would consent, (b) the council's current revenue liabilities were removed and (c) the council's interests in decisions over

future use were adequately safeguarded. This negotiation is yet to commence and so it is recommended that approval to proceed to disposal be delegated to the Executive Member for Financial Sustainability, acting in consultation with the Head of Housing, Health and Property, once the Executive Member is content with the proposed disposal price.

- 1.4 The sites plans showing the above three proposal asset disposals are attached at Appendix A.

2.0 Background

- 2.1 In support of the Medium Term Financial Plan, the council has embarked on an expedited programme of the disposal of assets which (a) are of no or very limited value to the council by virtue of them not generating any income, (b) are representing a financial liability in terms of maintenance or other costs and/or (c) could yield a receipt which would provide a better revenue outcome for the council than continued ownership.
- 2.2 The Executive commenced this expedited programme at their meeting on 1st October 2024, with further sites for disposal approved by the Executive at its meeting of 7th January 2025. These disposals are progressing well. This report now presents a third tranche of assets that have been identified for disposal.
- 2.3 Generation of capital receipts enables the council to pay down debt and/or avoid new debt and thus relieve it of interest payments and the need to make a minimum revenue provision (MRP). Given the council's upcoming liabilities for waste vehicle purchase, combined interest and MRP could be as much as £177,000 per year for every £1m receipt generated, thus the expediency of disposing of assets is paramount.

3.0 Reasons

Northgate End Residential/Commercial Block

- 3.1 The member-led Old River Lane Board agreed disposal of the individual units at Northgate End, these being flats 1-15 Limekiln Lane and 1 Link Road commercial space, via an external agent in May 2022. Disposal to date has not been successful so officers have now identified an approach that it is believed would expedite disposal while at the same time giving the council a receipt in excess of the previously assumed amount – see EXEMPT Appendix B for the financial details.
- 3.2 The council's Medium Term Financial Plan assumes disposal of the Northgate End residential and commercial development, although not now until 2026/27 at the earliest. As to be discussed below in detail, the recommendation is now to dispose of the freehold of the entire block to a sole purchaser and so for purposes of transparency, this proposed change of approach is being brought to the Executive for consideration.
- 3.3 By way of background, on completion of the block, the council sought to sell the nine private flats individually, the six affordable flats together to a housing association and the commercial property on the ground floor separately.
- 3.4 Unfortunately, the sales agent appointed by the council had no success in selling the individual private flats or the commercial space and despite considerable efforts by officers, only one offer from a housing association for the affordable flats was received. This offer had conditions which were not achievable or acceptable and so was declined. Of note, the council's contract with the marketing agent has now expired.
- 3.5 Three options for disposal of the properties have been considered, these being:
 - scenario A, the disposal strategy to date – continue to market the private flats and the commercial space while seeking a purchaser for the affordable units

- scenario B, slightly amended disposal strategy – seek planning approval to remove the requirement for onsite affordable housing through the provision of a commuted sum for affordable housing and then market all 15 flats as market housing and market the commercial space
- scenario C, dispose of the entire freehold – seek planning approval to remove the requirement for onsite affordable housing through the provision of a commuted sum for affordable housing and then dispose of the freehold of the entire building (residential and commercial units) as a single entity.

Appraisal of the three scenarios

- 3.6 Given the lack of success with the existing disposal strategy, it is felt that even reducing the asking price for the various constituent components of the block, would not lead to a timely and cost-effective disposal of all the properties – see the financial modelling in the EXEMPT Appendix B. Therefore, officers do not recommend following scenario A.
- 3.7 Scenario B would see the removal of the onsite provision of the affordable housing, with a commuted sum for affordable housing provided instead – note: this would be subject to planning approval. While this would obviate the need to find a housing association purchaser, something that has proven impossible to date and perhaps could only be achieved in the future with a very significantly lower receipt being accepted, there has been no indication to date that the presence of affordable units has put off potential buyers of the market flats. Thus, it seems unlikely that having an exclusively private block of flats would of itself expedite sales. Therefore, officers would not recommend pursuing scenario B. See the EXEMPT Appendix B for financial modelling of this option.
- 3.8 As the marketing contract with the previous agent has now lapsed, officers have discussed marketing with several other agents. During the course of this discussion, a local agent has come

forward with a credible offer in writing for the acquisition of the freehold of the whole block – residential and commercial units. This is scenario C above. Members will note that this approach is predicated on removal of the onsite affordable provision, most likely in return for a commuted sum for affordable housing being paid. The financial modelling of this scenario is presented in the EXEMPT Appendix B. It is officers' opinion that scenario C represents the best opportunity for the council to dispose of this asset in a timely way. This approach has the added benefit of foreshortening the period and extent to which council officers need to spend time managing the block.

- 3.9 While it is, of course, impossible to forecast with the certainty the actual receipts ultimately achievable under the three scenarios or the timescale for each one's completion, it *is* clear that scenario C affords the council the quickest way to relieve itself of the liability of managing 15 empty residential units and making temporary use itself of the commercial unit. The modelling assumes completion of the sale of the whole block with six months. This liability currently amounts to £100,000 per year. Following scenario C increases the speed of removing this ongoing revenue liability while at the same time reducing the risk of disposal of individual units taking far longer than even the prudent estimates in the Appendix B – these being, 18 months for all disposal under scenario A and 30 months under scenario B. The de-risking of disposal by following scenario C further strengthens the merits of this approach over the others.

Summary of capital and revenue implications of each scenario

- 3.10 EXEMPT Appendix B gives the full financial details of the three scenarios compared side-by-side. Each scenario is modelled to yield a net receipt in excess of the amount assumed in the council's Medium Term Financial Plan, even when a downside sensitivity analysis is applied with assumed achievable sales value being lower than modelled.

- 3.11 The EXEMPT appendix also shows that the recommended scenario C – freehold sale of the entire block – yields a slightly lower modelled receipt but this difference, in effect, disappears when prudent assumptions are applied within the downside sensitivity testing.
- 3.12 In addition, when looking over a 2½ year horizon, that being the longest period of time modelled for full disposal (scenario B), the recommended scenario C gives by far the highest positive revenue impact. This is because scenario C would see the receipt received far sooner than under the other scenarios thus allowing the council to more quickly benefit from its use to avoid newly arising borrowing, and thus interest payments and MRP, relating to the waste vehicle acquisition under the new waste management contract.
- 3.13 So, although scenario B could potentially yield the council a £310,000 higher capital receipt than the recommended scenario C, this figure is dwarfed by the £1m+ higher net revenue savings over the period up to the completion of disposals under scenario B. This demonstrates that scenario C can be considered the ‘best consideration’ disposal option under s123 of the Local Government Act 1972 and associated legal opinion and guidance.

Preserving affordable housing provision

- 3.14 Although the recommended means of disposal of the Northgate End flats and commercial space is predicated on seeking planning consent to remove the onsite provision of affordable housing, it is envisaged that this consent would only be given in return for a commuted sum for affordable housing. The current modelled commuted sum, included in the EXEMPT Appendix B, is of a magnitude that it council could, for example, be used to substantially reduce the rent of more than 20 properties (of all sizes up to four bedroom houses) to social rent levels of well under 60% of a market rent, if utilised in line with the council’s recent rent reduction scheme negotiated with a locally-operating housing

association. This approach, among others, could arguably have a more far-reaching benefit than the three affordable rent and three shared ownership flats currently required onsite.

Land at Layston Court Gardens, Buntingford

- 3.9 The land consists of 6,583.14 sqm/0.658314 hectares park gardens in Buntingford, currently managed under a licence from the council to Buntingford Town Council. The licence was let at a peppercorn.
- 3.10 There is an arrangement under the licence whereby East Herts Council pays a contribution each year to Buntingford Town Council for their maintenance of the land. The current contribution paid is £11.5k a year.
- 3.11 There are parkland trees on this site which the licence requires East Herts Council to survey each year, at a total cost of £2,800, and undertake any recommended safety actions, at whatever cost necessary.
- 3.12 The combined financial liability falling to East Herts Council of *at least* £14.3k a year would be removed by disposal.
- 3.13 At laid out in the EXEMPT Appendix B, the chartered surveyor's valuation has been calculated by qualified inhouse staff. It is to be expected that this formulaic valuation forms the basis of the negotiated price which may take account of the liabilities that would fall away for the council on disposal. The resultant price given in the EXEMPT appendix can thus be considered 'best consideration' for the site under s123 of the Local Government Act 1972. The disposal price in the appendix clearly shows the benefit to the council of disposal.
- 3.13 The community's and, indeed the council's, interest in the continued use of the land as park gardens is protected under the Open Spaces Act 1906. Furthermore, should alternative use be allowable under law at a future point, the inclusion of a covenant

attached to the land on disposal would safeguard the council's position to intercede at this point and, if advantageous, benefit from any uplifted value or other benefit.

- 3.14 In summary, the proposed sale would be at best consideration and would save East Herts Council the ongoing maintenance and tree survey and remedial works costs each year. Officers recommend the sale and Buntingford Town Council members have signalled their agreement in principle to proceed at the price given in the EXEMPT appendix should the council agree to disposal.

Land at West Street, Hertford

- 3.16 The land at West Street, Hertford is under a 40 year lease from 2014 to Hertford Football Club, that is, their legal entity known as Hertford Town Community Ltd (herein 'the company').
- 3.16 The company has approached the council to purchase the freehold to assist with their ongoing redevelopment and improvement of the club facilities.
- 3.17 The company has been successful to date with investment and grants from the Football Association and other bodies, including facilitating improvements to their 3G pitch, parking, fencing, floodlighting and infrastructure. The company is now at a stage that further investment would require borrowing or evidence of ownership or longer tenure.
- 3.18 Under the current lease arrangements with the company, East Herts Council has continued maintenance and survey liabilities for the trees and infrastructure on site. While on the face of it relatively modest in revenue terms (at least £1,000 a year), since 2020, the council as the landowner has been subject to repeated complaints and litigation relating to boundaries, ongoing activities and maintenance obligations. These ongoing disputes have costs East Herts Council tens of thousands of pounds in mediation, litigation and officer time. Although recently these complaints and

litigation have receded, the freehold sale of this land, would remove East Herts Council as a party to these ongoing disputes should they recommence. Disposal by freehold would remove these ongoing costs and obligations.

- 3.19 Under the current lease arrangements the council receives a small rent fixed for the remainder of the term (until 2054). The freehold sale would lead to this loss of income, so, any negotiated freehold sale will need to be at best consideration for the land to compensate for this loss of this nominal income.
- 3.20 Members may feel that retention of the current lease, although yielding a very small annual sum, affords the council some control as landlord over the club's day-to-day activity, including actions that could cause nuisance to the club's neighbours. In reality, however, investigation of and legal advice and action relating to the complaints referenced above have demonstrated that any nuisance in the locality stems from visitors' inconsiderate access to and parking near the club. These are things over which the council cannot seek redress from the club through the lease. In fact, as noted above, the football club has informed officers that the primary reason it wishes to acquire a longer-lasting interest in the land is that this will open up greater access to external funding which the club wishes to use to improve onsite parking, access routes and facilities. Therefore, it is likely that the lease provides little benefit over freehold disposal in terms of wider relations between the club and neighbours and, in fact, may allow the club to fund works to reduce any nuisance in the future.
- 3.21 The title for this land already contains a restrictive covenant to protect the land as a sport club and this would pass to the football club as successors in title. The proposed freehold sale would contain a further new covenant that the land shall only be used as a sports club with East Herts Council being the beneficiary of the covenant.

- 3.22 A purchase price is yet to be negotiated. This will need to be evidenced as best consideration by a chartered surveyor's valuation. The valuation is more complex than is typical within East Herts because it relates to sports club with various revenue benefits and capital aspirations, there is potential for associated development on site and there is an existing lease with various conditions. Therefore, it is anticipated that negotiations will be based on an independent valuation that both parties will have due regard to.
- 3.23 It is recommended that the Executive gives approval to disposal *subject to* the successful negotiation of an acceptable price and terms, with authority to proceed to disposal on the negotiated basis delegated to the Executive Member for Financial Sustainability, acting in consultation with the Head of Housing, Health and Property.

4.0 Options

- 4.1 The detailed analysis of various scenarios for the Northgate End block is shown in EXEMPT Appendix B. It is RECOMMENDED that scenario C be approved, that is, the sale of the freehold as a single entity. Furthermore, it is RECOMMENDED to dispose of Layston Gardens, Buntingford for reasons laid out in this report and dispose of land at West Street to Hertford Football Club subject to an acceptable price and terms.
- 4.2 Retain some or all of the assets discussed in this report. NOT RECOMMENDED as it is in the council's interest to dispose of underused assets and those which are in fact a financial liability given the need for investment.

5.0 Risks

- 5.1 As with any property disposal, there is a risk that an acceptable sales price cannot be achieved. This risk will be mitigated by disposing of each site in line with officers' and their agents'

professional advice and expertise as, indeed, the council is obliged to achieve best consideration.

- 5.2 Also, as with any sale there is the risk that the neighbours or close community may not welcome a change in ownership and/or use of the land or buildings. Any alternative use would be subject to planning approval which affords interested parties the opportunity to raise their objections or concerns.

6.0 Implications/Consultations

- 6.1 Should members approve for disposal any/all of the assets presented in this report, prior to actual disposal ward members of the wards affected would be notified and briefed. As noted above, any change of use would be subject to the appropriate planning permission.

Community Safety

None arising directly from this report.

Data Protection

None arising directly from this report.

Equalities

None arising directly from this report.

Environmental Sustainability

Any future works, redevelopment or change of use of any of the assets covered in this report would be subject to planning permission and building control. This is likely to maximise environmental sustainability improvements.

Financial

Finance colleagues have been consulted about these disposals. As noted in the report, every £1m of receipts would enable the paying down of a commensurate level of debt and/or the avoidance of new borrowing that would otherwise be needed to meet obligations. Of note, the necessity

to purchase new waste vehicles in 2025/26 could see combined interest and MRP of up to £177k per £1m spent. The receipts from the disposals in this report, especially the expedited disposal of the Northgate End block into 2025/26 would therefore lead to significant revenue savings for the council.

Health and Safety

Disposing of surplus assets or aging assets relieves the council of any future health and safety responsibilities, which are only set to increase as the condition of those assets deteriorates.

Human Resources

None arising directly from this report.

Human Rights

None arising directly from this report.

Legal

For any site approved by the Executive for disposal, the Head of Housing, Health and Property shall work with colleagues to ensure an appropriate means of disposal such that s123(2) is adhered to, that is, the council will **not** dispose of any site *'for consideration less than the best that can be reasonably obtained'*.

Ward(s) affected: Bishop's Stortford North (recommendation A), Buntingford (recommendation B) and Hertford Castle (recommendation C)

7.0 Background papers, appendices and other relevant material

7.2 Appendix A Location plans of each asset

7.1 Appendix B Modelled asset values – EXEMPT

Contact Member

Councillor Carl Brittain

Executive Member for Financial Sustainability

Carl.brittain@eastherts.gov.uk

Contact Officer

Jonathan Geall, Interim Deputy Chief Executive & Head of Health,
Housing and Property

Jonathan.Geall@[eastherts.gov.uk](mailto:Jonathan.Geall@eastherts.gov.uk)