



CORPORATE DISPOSALS AND ACQUISITIONS POLICY

Corporate Landlord
Economy, Regeneration & Culture
Civic Centre 3
Market Street
Huddersfield
HD1 1TG

Tel: 01484 221000

CONTENTS

| | |
|---------------------------------------------------|----|
| INTRODUCTION..... | 5 |
| 1. GENERAL PRINCIPLES FOR DISPOSALS..... | 7 |
| 2. GENERAL PRINCIPLES FOR ACQUISITIONS..... | 11 |
| 3. GENERAL ISSUES..... | 11 |
| Decision-making process | 11 |
| Value Added Tax (VAT)..... | 12 |
| Consultation..... | 12 |
| Fee Recovery | 12 |
| Commissioning | 12 |
| APPENDICIES..... | 14 |
| APPENDIX 1 – SCHEDULES AND OTHER INFORMATION..... | 15 |
| APPENDIX 2 – GLOSSARY OF TERMS..... | 16 |
| APPENDIX 3 - DELEGATION SCHEME..... | 17 |

INTRODUCTION

Kirklees Council owns an extensive land and property portfolio and recognises that through efficient and effective management and disposal, this valuable resource can support the Council's priorities by:-

- Supporting the Capital Plan
- Complementing the Asset Strategy
- Complementing the Councils economic resilience policy
- Providing social, community and environmental benefits

The Service Director – Economy, Regeneration & Culture has overall responsibility for disposal and acquisition of Council land and property assets and the Disposals and Acquisition Policy sets out how this will be achieved.

Whilst the primary focus of this document is to provide key policy guidance for officers, elected members, businesses and the general public, it is important to note that each individual case should be treated on its own merits and nothing in this document binds the Council into any particular course of action when dealing with the portfolio.

Date of document 3 March 2017 v4.0

1. GENERAL PRINCIPLES FOR DISPOSALS

The Council will dispose of land and property assets on the following key principles:-

- The disposal does not prejudice the longer term interests of the Council
- The proposed use of the land and property will generally be supported by the Local Planning Authority
- The consideration is the best that can reasonably be obtained unless the disposal is through the Council's Asset Transfer scheme
- The terms of the disposal protect the Council's adjoining and retained land and property
- The terms of the disposal recover the Council's reasonable costs of sale, where possible

Best Consideration

Under the Local Government Act 1972 (as amended) the Council is obliged to obtain the best consideration that can reasonably be obtained when disposing of land and property. Best consideration is defined as the unrestricted market value taking into account any additional amount which might be obtained from a purchaser with a special interest. Unrestricted market value generally means the best price obtainable where the principle aim is to maximise the value of the receipt. The unrestricted value should take account of whatever uses might be permitted by the Local Planning Authority.

Consideration is not limited to the purchase price; it may also include disposal terms which have an identifiable commercial value to the Council but this should be converted to a capital value for the purpose of establishing what the best consideration is.

Where the Council is disposing of key strategic development land, it will evaluate the regeneration benefits arising from the disposal together with the financial considerations. The Council will also take account of the financial strength of the proposed purchaser and the purchaser's commitment to a proposed scheme.

The Local Government Act 1972 General Disposal Consent (England) 2003 allows the Council to dispose of land and property which it considers will contribute to the promotion or improvement of the economic, social or environmental wellbeing of the area at less than best consideration, providing the undervalue does not exceed £2m. For proposed transactions where the 'undervalue' will exceed the £2m threshold specific consent from the Secretary of State will be required.

Disposals undertaken through the Council's Asset Transfer Scheme will generally be at less than best consideration utilising the General Consents and will be subject to the requirements of the Scheme.

In circumstances where the Council is mindful to dispose at an under value it will have regard to the following:-

- Circular 06/03: Local Government Act 1972 General Disposal Consent (England) 2003 and General Housing Consents 2005 published by the Department of Communities and Local Government (DCLG), particular regard being had to the Technical Appendix which explains the issues outlined earlier in more extensive detail
- European Commission Communication on State Aid elements in sales of land and buildings by public authorities (97/C 209/03) – also known as the ‘State Aid Rules’.
- RICS Valuation – Professional Standards 2014 UKGN 5 – Local authority disposal for less than best consideration.

In determining whether or not to dispose of land for less than best consideration, the Council will ensure that it complies with normal and prudent commercial practices, including obtaining the view of a professionally qualified valuer as to the likely amount of the undervalue in accordance with the Technical Appendix. Any decision to sell at an undervalue will be made by the Council’s Cabinet.

Methods of Disposal

All land and property assets which are released for disposal will be fully marketed with the exception of disposals to nominated and special purchasers (see below), which will be sold by private treaty negotiation.

Disposal of land and property can be undertaken in a number of ways and it is for the Council to determine the most appropriate sales mechanism for their asset, but potential approaches include:

- **Formal Tender** – where the sale is publicly advertised and tenders submitted by a given date.
- **Informal or Negotiated Tender** – where informal tenders are invited by a given date subject to contract. Negotiations may continue after tenders are received, with the possibility that different bidders may compete to offer the most advantageous terms. This approach enables the seller to continue to negotiate after the closing date for tenders to ensure the best possible terms and outcomes.
- **Public Auction** – where land is sold through an open auction, available to anyone. Sales will be publicly advertised in advance. Auctions have the advantage of being open, competitive and allow for transactions to be completed quickly.
- **Private sale** – where the sale of land is negotiated with one or a small number of potential buyers at a price agreed between the parties. Private sale has the advantage of being straightforward, but is likely to be appropriate only in certain circumstances (for example for smaller lots of land, where sitting tenants have rights to purchase and also farm tenants, etc.).

Disposals to Nominated Purchasers

Disposals to nominated purchasers will be considered by the Council where this meets an identified regeneration, social or community need. All 'off market' disposals to nominated purchasers will be subject to an independent external valuation to determine best consideration.

Disposals to Special Purchasers

The Council may dispose to purchasers to whom a particular asset has special value because of advantages arising from its ownership that would not be available to general purchasers in the open market. Such 'special purchasers' will include adjoining owners and parties with an interest in the property where a disposal will release additional, or marriage value, to be shared with the Council.

A single tenant who occupies more than 50% of a multi-occupied property maybe considered as a special purchaser (otherwise the property will be sold on the open market as an investment).

Disposal Terms

Wherever possible, the Council will endeavour to keep land and property disposals simple and cost effective for both parties. For certain types of disposals, it may be necessary for the Council to impose terms which are considered necessary to protect the Council's interests. Such terms may include:-

- *Development Obligations*
The Council generally will only dispose of strategic development land for identified development proposals. Where appropriate, the Council will impose obligations to commence and complete the proposed development within a reasonable timescale backed up with an option for the Council to re purchase the land.
- *Development Agreements*
Development agreements will be used for the disposal of strategic development sites where the principal aim of the disposal is to facilitate regeneration benefits from a particular scheme.
- *Overage and claw back*
Where appropriate, disposals will include provisions for securing a share of future enhanced values through the use of overage and claw back clauses.

Disposal and Planning permission

As a general principle, and in order to support the Council in the discharge of its statutory planning function, disposals will not normally be completed until planning permission (if required) is obtained. The Council will not be obliged to complete a disposal where an appeal has been lodged against a decision of the Local Planning Authority.

Prior to the marketing of land and property, the Council may seek planning permissions for alternative uses where this will help maximise value and where it is cost effective and expedient to do so.

Asset Transfer Scheme

The Council's Policy on Asset Transfer is contained in a separate document which can be accessed via the following link:-

<http://www.kirklees.gov.uk/community/yourneighbourhood/communityAssetTransfer.aspx>

Release/variation of covenants

The Council has the benefit of restrictive covenants placed on previous freehold and leasehold disposals. These covenants usually restrict the use to which land and property can be put, although they could also relate to other forms of restriction.

Any request to release or modify covenants will be considered having regard to the original purpose of the covenant and its current relevance. Where the Council is mindful to agree to a release or other modification, it will seek a reasonable commercial return by way of compensation if the release or modification is considered to have a value, otherwise just fee recovery.

Public Open Space and Common Land

The disposal of land which is, or forms part of an area of Public Open Space or Common Land, is subject to special rules and procedures. Before disposing of such areas, the Council is obliged to publish the intention to dispose and consider any representations which are subsequently received. The provisions regarding the disposal of Common Land require consent from the Secretary of State and replacement land to be made available where the area of land to be sold exceeds 200m².

Disposal of School Playing Fields

Where the Council wishes to dispose of land forming part of a school playing field it will be necessary, in all but a minority of cases (area less than 50m²) to seek consent from the Secretary of State. The Department for Education will usually only agree to the sale of school playing fields if the sports and curriculum needs of schools and neighbouring schools can continue to be met. The Secretary of State expects Local Authorities to have first investigated and exhausted all other possible sources of funding before considering the sale of school playing fields. Even if the school is closed it is extremely difficult to secure consent to dispose of playing field land.

Disposal of Former School Sites and Former School Caretaker's Houses

Where the Council wishes to dispose of a former school site it will be necessary to seek consent from the Secretary of State, if the closure was in the last eight years.

There are various criteria to be met, including having advertised the school as being available for use as a free school.

Vacant caretaker's houses may only be sold with the consent of the Secretary of State.

Land Exchanges

The Council will consider a disposal by way of an exchange of land when it is advantageous to the Council and the other parties. The disposal will be on the basis of an equality of exchange and any inequality in land value will be compensated for by a balancing payment or other means of consideration as appropriate.

Easements and Wayleaves etc

The Council will not grant any new easements, private rights of way or privileges over Council owned land unless this is necessary to protect or promote the long term interests of the Council.

Any existing rights will remain until such time as the subject land may be released for development whereupon the land will be sold subject to the existing rights.

Where permitted under the terms of the agreement, the Council will undertake a review of any payments due to the Council.

The Council will continue to grant easements and wayleaves to statutory undertakers who have compulsory powers and rights to requisition services.

2. GENERAL PRINCIPLES FOR ACQUISITIONS

The Council may from time to time acquire and interest in land and property in order to meet and identified operational or strategic need eg transportation and regeneration.

The Council will acquire land or property from the open market or privately having regard to normal and prudent commercial practices.

Where the Council proposes to make a compulsory purchase order (CPO) it will attempt to acquire the necessary interests by agreement in the first instance having regard to the methods and procedures for assessing the correct amount of compensation commonly known as the "Compensation Code".

3. GENERAL ISSUES

Decision-making process

This Disposals and Acquisitions Policy will be used as the basis for decision-making by Physical Resources and Procurement when operating the Delegation Scheme (Appendix 3) as amended and reissued from time to time. It will also be used as the basis for recommendations to Cabinet or Cabinet Committee - Assets where an Executive decision is required.

Value Added Tax (VAT)

The Council will elect to waive its exemption (opt to tax) on the disposal of land and property assets where the Council wishes to recover previously incurred input tax. The decision whether to opt to tax or not will be jointly made by the Service Directors responsible for Physical Resources and Procurement and Resources.

VAT will be payable on the disposal and letting of land used for car parking (including garages) where HMRC guidance states it must be charged and on rents, service charges and other charges where the Council has previously 'opted to tax'.

Consultation

Local ward members will be consulted in the following circumstances:-

- Before disposing of surplus land or property and the release or variation of restrictive covenants
- As part of the process for advertising the disposal of 'public open space'
- Before submitting planning applications on Council owned land
- Before a report goes to Cabinet or Cabinet Committee – Assets on land and property within their Ward

Where local ward members are to be consulted, they will be given at least 10 working days to respond and all comments whether in support or objection to the proposal will be included in the report to the decision making body.

Fee Recovery

Where appropriate, the Council will seek to recover from third parties, its reasonable legal, surveying and administrative costs incurred in dealing with all matters involving the non-operational portfolio. The fee recovery will be on the basis of the approved schedule of fees listed in Appendix 1.

Initial enquiries about the Council's land and property ownership will be provided at no cost.

Commissioning

The Council may, from time to time, commission external consultants in connection with the disposal and acquisition of land and property. The Council will procure consultants in accordance with its contract and financial procedure rules and wherever possible will use Kirklees based consultants in addition to utilising national and regional frameworks. The Council will ensure that the external consultants will possess the necessary professional and technical qualifications and experience.

APPENDICIES

APPENDIX 1 – SCHEDULES AND OTHER INFORMATION

APPENDIX 2 – GLOSSARY OF TERMS

APPENDIX 3 - DELEGATION SCHEME – To be updated as necessary

APPENDIX 1 – SCHEDULES AND OTHER INFORMATION

- Schedule of fees to be recovered from third parties including legal, surveyor's and administrative / consent fees.

| Disposal Type | Fees | Minimum |
|----------------------------------------------------------|----------------------|----------------|
| Commercial disposals to nominated and special purchasers | 3% of purchase price | £2,000 |
| Competitive Disposals | 2% of purchase price | |
| Sales of garden land | £625 | |
| Asset Transfer | nil | |
| Transferor's consents | £500 | |

*All fees exclusive of Value Added Tax and disbursements

APPENDIX 2 – GLOSSARY OF TERMS

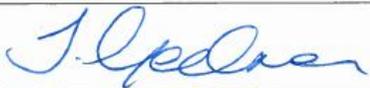
| | |
|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Best Consideration | Best Consideration is the market value of land and/or property including any additional amount that is, or might reasonably be expected to be, available from a purchaser with special interest. |
| Capital Plan | The Council's plan for capital expenditure over a period of one to three years. |
| Compensation Code | The rights to compensation and methods and procedures for assessing the correct amount are derived from what is commonly referred to as the "Compensation Code". This is made up of Acts of Parliament, case law and established practice. The principal Acts are the Land Compensation Acts of 1961 and 1973 and the Compulsory Purchase Act 1965. |
| General Disposal Consent 2003 | Provides a general consent removing the requirement for local authorities to seek specific approval from the Secretary of State for a wide range of disposals at less than best consideration. |
| Local Government Act 1972 | Makes provision about local government and its functions. Section 123 relates to the disposal of land. |
| Opt to Tax | 'Opt-to-tax' is a mechanism which enables the Council to recover VAT on expenditure relating to a property transaction (input tax; usually when there has been major expenditure on which a large amount of VAT has already been paid out) that would otherwise be irrecoverable. This can have significant positive effects on the Council's overall financial position. |
| RICS | Royal Institution of Chartered Surveyors |
| UKGN | United Kingdom Guidance Note |

APPENDIX 3 - DELEGATION SCHEME

KIRKLEES COUNCIL

**DIRECTORATE FOR PLACE
RECORD OF POWERS DELEGATED BY THE DIRECTOR FOR PLACE
(Corporate Landlord Scheme)**

DATE: 6 December 2016

| | |
|------------------------------------|-------------------------------------------------------------------------------------|
| <i>Date last reviewed</i> | <i>December 2016</i> |
| <i>Approved by Signature</i> |  |
| <i>Date Approved</i> | <i>December 2016</i> |
| <i>Version No.</i> | <i>1.2</i> |
| <i>Review Date</i> | <i>December 2016</i> |
| <i>Directorate contact officer</i> | <i>Joe Tingle</i> |

DIRECTORATE FOR PLACE

DELEGATED POWERS

Purpose:

To set out the delegations from the Assistant Director, Place in accordance with the requirements of paragraph 6 of Part 3 Section F of the Council's Constitution.

Related Policies & Documents

- Council Constitution (Part 2: Article 13: Decision Making) - <http://www.kirklees.gov.uk/you-kmc/constitution/articles/art13.pdf>
- Council Constitution (Part 3: Responsibility for Functions) - <http://www.kirklees.gov.uk/you-kmc/constitution/ConstitPart3.pdf>
- Council Constitution (Part 4.6: Financial Rules & Procedures – <http://www.kirklees.gov.uk/you-kmc/yourCouncil/pdf/constitutionPart46.pdf>

Key Statutes/Legislation

Legislation applied in the delegated decisions specified in this document includes the following:

Academies Act 2010
Access to Neighbouring Land Act 1992
Acquisition of Land Act 1981
Agriculture Holdings Act 1986
Agricultural Tenancies Act 1995
Civil Procedure Act 1997
Common Law Procedure Act 1852
Commons Act 2006
Commons Registration Act 1965
Counter Terrorism and Security Act 2015
Crime and Disorder Act 1988
Criminal Law Act 1977
Education Act 1996
Highways Act 1980
Housing Act 1985
Land Compensation Act 1973

Landlord and Tenant Act 1927
Landlord and Tenant Act 1954
Landlord and Tenant Act 1988
Law of Property Act 1925
Leasehold Reform Act 1967
Leasehold Reform, Housing and Urban Development Act 1993
Local Government Act 1972
Local Government Act 2000
Local Government (Miscellaneous Provisions) Act 1976
Open Spaces Act 1906
Planning (Listed Buildings & Conservation Areas) Act 1990
Road Traffic Regulation Act 1984
School Standards and Framework Act 1998
Town and Country Planning Act 1990
Tribunals, Courts and Enforcement Act 2007

AND all secondary legislation enacted thereunder

Who is governed by this policy?

The scheme of delegations will apply to all permanent, contract and temporary officers working for the Council.

Summary

The Council's Constitution requires that each Director will prepare service schemes of delegation which set out how decisions will be made in each of the Services for which they are responsible. Such schemes should clearly identify which officers have been authorised to make decisions under the delegated powers of the Director. All schemes of delegation will be lodged with the Council's Monitoring Officer and made available to the public on request.

Officers may only exercise the powers delegated to them in accordance with all relevant statutory requirements, the provisions of the Council's Constitution, the revenue and capital budgets of the Council, its Procurement Code, Financial Regulations and other relevant policies and procedures.

Delegation is simply a way of allocating matters to the levels appropriate to ensure that the Directorate's business is dealt with in the most efficient way possible. Delegated power will normally be exercised at the lowest level to which it has been given. However, all such powers will also be held by the Director.

Where an officer post to which any function has been delegated is renamed or is affected by a staffing reorganisation, then the relevant delegation shall be treated as applying to the renamed post or, as appropriate, to the post which has been allocated the same or substantially the same relevant duties as the original post following that reorganisation.

In exercising the powers delegated to them officers must observe any additional procedural requirements that apply within their services e.g. any requirement to consult local ward councillors, cabinet members and/or the leader. It is also good practice to keep local ward councillors informed of decisions made and implemented under delegated powers that significantly affect members of the community in their ward.

Scheme of Delegation & Decision Making (Corporate Landlord)

| Responsibility | Officer A | Officer B | Operational Manager | Senior Manager | Assistant Director |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-----------|---------------------|----------------|--------------------|
| APPROPRIATION OF LAND | | | | | |
| LOCAL GOVERNMENT ACT 1972 | | | | | |
| Authority to appropriate land Section 122 - Local Government Act 1972 Section 19 – Housing Act 1985 Town & Country Planning Act 1990 – Section 229 & Section 232 | ✓ | ✓ | ✓ | ✓ | ✓ |
| Authority to instruct the Assistant Director – Legal, Governance & Monitoring to advertise the proposed appropriation of Public Open Space or Common Land Section 122 | ✓ | ✓ | ✓ | ✓ | ✓ |
| DEDICATION OF LAND | | | | | |
| HIGHWAYS ACT 1980 | | | | | |
| Authority to instruct the Assistant Director – Legal, Governance & Monitoring in connection with dedication of land as public highway | ✓ | ✓ | ✓ | ✓ | ✓ |
| OWNERSHIP INFORMATION | | | | | |
| LOCAL GOVERNMENT (MISCELLANEOUS) PROVISIONS ACT 1976 | | | | | |
| Authority to issue notices requiring information as to interest in land Section 16 | ✓ | ✓ | ✓ | ✓ | ✓ |
| TOWN & COUNTRY PLANNING ACT 1990 | | | | | |
| Authority to issue notices requiring information as to interests in land Section 330 | ✓ | ✓ | ✓ | ✓ | ✓ |
| HIGHWAYS ACT 1980 | | | | | |
| Authority to issue notices requiring information as to ownership of land Section 297 | ✓ | ✓ | ✓ | ✓ | ✓ |
| DISPOSAL OF LAND & PROPERTY | | | | | |
| Authority to negotiate terms for & instruct the Assistant Director – Legal, Governance & Monitoring concerning disposals of all land, property & rights up to the value of £500,000, subject to terms over £250,000 being noted in the Forward Plan. | | | ✓ | ✓ | ✓ |
| PUBLIC OR QUASI OPEN SPACE, COMMON LAND OR VILLAGE GREENS | | | | | |

Scheme of Delegation & Decision Making (Corporate Landlord)

| Responsibility | Officer A | Officer B | Operational Manager | Senior Manager | Assistant Director |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-----------|---------------------|----------------|--------------------|
| Authority to negotiate terms for & instruct the Assistant Director – Legal, Governance & Monitoring to advertise the proposed disposal of Public or quasi Open Space, Common Land or Village Greens subject to no objections from members of the public. | ✓ | ✓ | ✓ | ✓ | ✓ |
| ACQUISITION OF LAND & PROPERTY | | | | | |
| Authority to negotiate terms for & instruct the Assistant Director – Legal, Governance & Monitoring concerning the acquisition of all land, property & rights by agreement or compulsory purchase on behalf of the Council up to the value of £500,000, subject to terms over £250,000 being noted in the Forward Plan | | | ✓ | ✓ | ✓ |
| COMPENSATION | | | | | |
| Authority to determine, negotiate terms & instruct the Assistant Director – Legal, Governance & Monitoring concerning compensation payments on behalf of the Council up to the value of £500,000, subject to terms over £250,000 being noted in the Forward Plan | | | ✓ | ✓ | ✓ |
| RIGHT TO BUY | | | | | |
| Housing Act 1985 – Part V | | | | | |
| Authority to determine Right to Buy applications & discount. Authority to serve Notices in connection with the process. Authority to instruct the surveyor to value the properties. Authority to instruct the District Valuer in connection with determination & redetermination of value. Authority to serve Notices admitting or denying the Right to Buy. Authority to instruct the Assistant Director – Legal, Governance & Monitoring to conclude the disposal of the property. | ✓ | ✓ | ✓ | ✓ | ✓ |
| Authority to appear as a witness at First-tier Tribunal Property Chamber (Residential Property) to represent the Council's case (whether written representations or oral hearing) | | | ✓ | ✓ | ✓ |
| Authority in conjunction with the Head of Housing Services to determine whether the Council should exercise its discretion with regard to the repayment of discount | ✓ | ✓ | ✓ | ✓ | ✓ |
| PLANNING APPLICATIONS | | | | | |

Scheme of Delegation & Decision Making (Corporate Landlord)

| Responsibility | Officer A | Officer B | Operational Manager | Senior Manager | Assistant Director |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-----------|---------------------|----------------|--------------------|
| Authority to make applications for planning permission on Council land | ✓ | ✓ | ✓ | ✓ | ✓ |
| NOTICE TO QUIT | | | | | |
| Authority to sign and serve all Notices to Quit and all Notices under the Landlord and Tenant Act 1954. | ✓ | ✓ | ✓ | ✓ | ✓ |
| LETTING OF LAND & PROPERTY | | | | | |
| Authority to approve applications for the assignment of leases | ✓ | ✓ | ✓ | ✓ | ✓ |
| Authority to authorise formal Deeds of Apportionment of ground rents of leasehold properties | ✓ | ✓ | ✓ | ✓ | ✓ |
| Authority to negotiate terms for & sign standard forms of agreement in respect of site compounds, site licences, licences, wayleaves, rights of way, privileges & tenancies (not including tenancies in respect of Council Houses) | ✓ | ✓ | ✓ | ✓ | ✓ |
| Authority to give landlords consent in respect of long leases, where the long term interests of the Council are not prejudiced | ✓ | ✓ | ✓ | ✓ | ✓ |
| Authority to negotiate terms for & instruct the Assistant Director – Legal, Governance & Monitoring to complete the letting of all commercial land and property. | | | ✓ | ✓ | ✓ |
| Authority to serve necessary Notices, negotiate rent reviews & in Leases & to authorise the Memorandum of Rent review | | | ✓ | ✓ | ✓ |
| Authority to instruct a third party in accordance with the Arbitration Acts where necessary to determine the rent review | | ✓ | ✓ | ✓ | ✓ |
| Authority to negotiate terms for & instruct the Assistant Director – Legal, Governance & Monitoring to complete lease renewals. | | | ✓ | ✓ | ✓ |
| Authority to approve changes of use, extension to user clauses or variations to covenants within Leases & instruct the Assistant Director – Legal, Governance & Monitoring to complete the documentation | | | ✓ | ✓ | ✓ |
| Authority to negotiate the surrender of Leases & instruct the Assistant Director – Legal, Governance & Monitoring to complete the documentation | | | ✓ | ✓ | ✓ |
| Authority to institute proceedings for & where necessary instruct the Assistant Director – Legal Governance & Monitoring take the necessary action to recover rent or other monies due to the Council under the provisions of tenancies or leases | | ✓ | ✓ | ✓ | ✓ |

Scheme of Delegation & Decision Making (Corporate Landlord)

| Responsibility | Officer A | Officer B | Operational Manager | Senior Manager | Assistant Director |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-----------|---------------------|----------------|--------------------|
| including the power of distraint, forfeiture and suing on the personal covenant | | | | | |
| EASEMENTS | | | | | |
| Authority to negotiate terms for & instruct the Assistant Director – Legal, Governance & Monitoring to grant or take easements whether for a term of years or in perpetuity. | | | ✓ | ✓ | ✓ |
| LANDS TRIBUNAL CASES/COURT APPEARANCES | | | | | |
| Authority to present the Council's case (whether written representations, at informal hearing or public inquiry) | | ✓ | ✓ | ✓ | ✓ |
| TRESPASSERS/SQUATTERS | | | | | |
| LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012 | | | | | |
| Authority to instruct the Assistant Director – Legal, Governance & Monitoring to recover possession of squatters from a residential buildings | | ✓ | ✓ | ✓ | ✓ |
| CIVIL PROCEDURE ACT 1997 | | | | | |
| Authority to instruct the Assistant Director – Legal Governance & Monitoring to regain/obtain possession of any land or premises, owned, leased or occupied by the Council which are occupied without the consent of the Council. | | ✓ | ✓ | ✓ | ✓ |
| Authority to determine the scale of fees & charges relating to costs for administration & valuation work | | | ✓ | ✓ | ✓ |
| COMMUNITY RIGHT TO BID | | | | | |
| To determine procedures from time to time and comply with Section 87-108 of the Localism Act 2011 and the non-statutory guidance and the Assets of Community Value (England) Regulations 2012. | | | | ✓ | ✓ |
| To consider the validity of the applications and to determine whether they are successful or not and inform all relevant bodies of the decision | | ✓ | ✓ | ✓ | ✓ |
| Consider and determine valid request for listing review from owners. | | | ✓ | ✓ | ✓ |
| Consider valid applications for compensation for loss and expense incurred through the asset being listed or previously listed and to agree payment of compensation to affected owner/former owners. | | | | ✓ | ✓ |
| To consider and determine valid applications from owner or former owners of land | | | | ✓ | ✓ |

Scheme of Delegation & Decision Making (Corporate Landlord)

| Responsibility | Officer A | Officer B | Operational Manager | Senior Manager | Assistant Director |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-----------|---------------------|----------------|--------------------|
| listed as an ACV for a review as to whether compensation should be made; and the amount of compensation and to give reasons for the review decision. | | | | | |
| To approve application of register and removal of local land charges and enter into restrictions on title at HM Land Registry for registered land to prevent disposal by the owner in breach of the regulations. | | | | ✓ | ✓ |
| TERRORISM/EMERGENCY PLANNING - PREVENT | | | | | |
| To take all necessary steps to deal with an emergency in accordance with the Kirklees Emergency Plan and the Physical Resources & Procurement Service Business Continuity Plan. | | | | ✓ | ✓ |

Additional delegation approved by Cabinet 2016:

| | | | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|--|---|---|
| Implications of school category changes for land and premises – an extension of delegation to senior officers to dispose of Council assets. That approval is given to the delegation of powers to the Assistant Directors Place and Assistant Director Legal and Governance to deal with the disposal of Council assets either as a result of school expansion, historic or otherwise and also when a school changes category. | | | | ✓ | ✓ |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|--|---|---|

Underpinning all activity:

Terrorism/Emergency Planning – Prevent:

To ensure the Council's policies, procedures and resources in the leasing/letting[disposal] of property have due regard to 'Prevent' duty under s26 of the Counter Terrorism and Security Act 2015 and Home Office Guidance to prevent people being drawn into terrorism [and that Contractors support the Council to discharge the 'Prevent duty'].

Scheme of Delegation & Decision Making (Corporate Landlord)

Key to roles:

| Responsibility | Post Title, Section |
|------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| *Assistant Directors, Place | *This delegation applies to all Assistant Directors in the Place Directorate |
| **Senior Managers (Grade 17-19) | Head of Corporate Landlord Capital Development and Capital Delivery Schools Facilities Manager Head of Building Services |
| Operational Managers (Grade 13 -16) | Asset Strategy Officer Disposal and Acquisition Team leader |
| Officer A | Asset Management Officer (Land) Right to Buy Officer Disposal and Acquisition Officers |
| Officer B | Corporate Facilities Manager Asset Strategy Officer Disposal and Acquisition Surveyor |

** Records of all delegations taken 'of significant public interest' will include the designated post holder taking the decision.