

## **Property Sub-Committee**

### **Membership and Terms of Reference**

#### **Purpose:**

1. To exercise full delegated executive powers to consider and make decisions on all land and property transactions where the County Council has an interest and the value of that transaction is between £200,000 and below £2 million as defined in the schedule of decision making authority appended to these Terms of Reference.
2. To advise the Cabinet on the contents of the property strategy for the use of land and property in which the County Council has an interest, including Economic Regeneration Sites, County Farms and Enterprise Centres.

#### **Meetings Arrangements**

The Sub-Committee will be convened in accordance with the Access to Information Rules and will meet at monthly intervals on dates published in advance in the County Council's calendar of meetings.

The Director of for Corporate Services, as Monitoring Officer, shall be the Proper Officer for the purpose of administering the Sub-Committee.

The provision for County Councillors to attend Cabinet meetings in accordance with the 'Local Member' provisions in the Constitution will be extended to permit attendance at Sub-Committee meetings.

#### **Membership**

The Sub-Committee will comprise:

- The Leader of the Council
- The Deputy Leader of the Council
- Cabinet Member for Commercial
- Cabinet Member for Environment, Infrastructure and Climate Change
- Cabinet Member for Education (and SEND)

#### **Chairman**

The Sub-Committee will be chaired by the Leader of the Council or, in his/her absence, the Deputy Leader of the Council.

#### **Quorum**

The Quorum for the Sub-Committee shall be two members, one of which must be either the Leader or Deputy Leader.

In circumstances where both the Leader and Deputy Leader are unable to participate in discussions on an item (eg. due to the need to declare an interest), that item will be referred to Cabinet for determination.

The meeting will be adjourned if, having been quorate at the start, the Leader or Deputy Leader leave the meeting causing it to no longer be quorate and a reconvened meeting will be arranged or the remaining business will be carried over to the next scheduled meeting.

Any business which cannot wait until the reconvened or next meeting will be forwarded to cabinet for consideration if a meeting of the cabinet is scheduled prior to the reconvened or next scheduled Sub-Committee meeting.

### **Voting**

Decisions will be made by majority vote. Where the votes cast are equal the chairman shall have a second or, casting vote.

### **Sub-Committee Decisions**

The Sub-Committee may consider items referred to it from other levels in the decision making structure appended to these Terms of Reference and may also refer to full Cabinet any issue within the Sub-Committees remit, on which it requires a wider view.

The Proper Officer shall decide whether a matter should be submitted to the Sub-Committee.

Any reports on which a member of the Sub-Committee has a conflict of interest shall be referred to full Cabinet for consideration.

Decisions made by the Sub-Committee shall relate to the responsibilities of the Executive only and are subject to the County Council's Budget and Policy Framework Rules, Call-in provisions, Access to Information Rules and Financial Regulations.

All decisions shall be taken on the basis of detailed written reports from the Cabinet Members and Lead Officers for Property Matters (either Strategic or Economic) , such reports shall include relevant advice from other County Council Officers including, where appropriate, the Head of Scrutiny.

All decisions of the Sub-Committee shall be formally recorded and submitted to the next meeting of the Cabinet for information.

### **County Farms Tenancies Panel**

The County Farms Tenancies Panel shall act as an advisory body for decisions made by, or on behalf of the Panel, on the allocation of County Farm Tenancies.

### **[Review of Terms of Reference and Schedule of Decision Making Levels](#)**

The Sub-Committee shall review the contents of this Terms of Reference and Schedule of Decision Making Levels on a 2 yearly basis.

Any significant changes proposed will be referred to the Audit and Standards Committee and Full Council for consideration

Any minor or consequential amendments to keep the Terms of Reference and Schedule of Decision Making Levels up to date with legislative requirements and/or to keep them in line with Council's decisions shall be authorised by the Deputy Chief Executive and Director for Corporate Services.

**UPDATED – AUGUST 2020**

UPDATED JULY 2023

Appendix 1

SCHEDULE OF DECISION MAKING LEVELS FOR PROPERTY MATTERS (December 2017)

Commented [YM(1): Amend to updated version date?]

TRANSACTION	CABINET	PROPERTY SUB CTTEE	OFFICERS Director <del>of</del> <u>for</u> Corporate Services  (see note 1 below)
<b>Acquisitions - all interests (with exception to Leases and acquisition by private treaty following compulsory purchase)</b>	All acquisitions at market value of £2m or above.  Final Terms and any variation in Terms for ALL transactions to be approved by relevant Portfolio Holder	All acquisitions at market value of between £200,000 and <u>below</u> £2m  Final Terms and any variation in Terms for ALL transactions to be approved by relevant Portfolio Holder	All acquisitions at market value <u>below of up to</u> £200,000, and all Terms for those transactions
<b>Disposals</b>  1 Freehold – <b>at best consideration</b>	All disposals for best consideration at a market value of £2m or above.  Final Terms and any variation in Terms for ALL transactions to be approved by relevant Portfolio Holder	All disposals for best consideration, at a market value between £200,000 and below £2m  Final Terms and any variation in Terms for ALL transactions to be approved by relevant Portfolio Holder	All disposals for best consideration, at a market value of below £200,000, and all Terms for those transactions

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TRANSACTION	CABINET	PROPERTY SUB CTTEE	OFFICERS Director <del>of</del> for Corporate Services  (see note 1 below)
<p>2 Freehold – <b>at undervalue</b></p>	<p>Any disposal of a freehold at an undervalue, where the undervalue value is £2M or more</p> <p><b>NB:</b> For an undervalue of £2m or more <del>(and/or including where the social economic environmental well-being criteria is not satisfied for an undervalue below £2m)</del> approval by the Secretary of State is required under Section 123 of the Local Government Act 1972 and General Disposal Consent 2003</p> <p>Final Terms and any variation in Terms for ALL transactions to be approved by relevant Portfolio Holder</p>	<p>Any disposal of a freehold at an undervalue, where the undervalue value is <del>less than</del> £2m <del>or less</del></p> <p><b>NB:</b> <del>In accordance with the General Disposal Consent 2003, the consent of the Secretary of State is not required under s123 of the Local Government Act 1972 for an undervalue of less than £2m if the disposal helps to secure the promotion or improvement of the economic, social or environmental well-being of the area.</del> <del>NB: For an undervalue of £2m or more and/or where the social economic environmental well-being criteria is not satisfied approval by the Secretary of State is required under Section 123 of the Local Government Act 1972 and General Disposal Consent 2003</del></p>	<p>-</p>
<p>3 Leasehold <b>at best consideration</b> (Granting or</p>	<p>All leasehold disposals for best consideration at a total rent over the term or a premium plus the total rent of -£2m or above.</p>	<p>Final Terms and any variation in Terms for ALL transactions to be approved by relevant Portfolio Holder</p>	

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TRANSACTION	CABINET	PROPERTY SUB CTTEE	OFFICERS Director <del>of</del> for Corporate Services  (see note 1 below)
<p>surrendering (including farm business tenancies)</p> <hr/> <p>4 Leasehold at undervalue</p>	<p>Final Terms and any variation in Terms, <i>including Right of Renewal</i>, for all transactions to be approved by the relevant Portfolio Holder</p> <hr/> <p>Any disposal of a leasehold interest in land for a term of <b>7 years or more</b> where the undervalue value is £2M or more.</p> <p><b>NB:</b> For an undervalue of £2m or more <del>and/or</del>(including where the <u>social economic environmental well-being criteria is not satisfied -for an undervalue below £2m</u>) approval by the Secretary of State is required under Section 123 of the Local Government Act 1972 and General Disposal Consent 2003. <u>A short tenancy (granted for seven years or less, or the assignment of a</u></p>	<p>All leasehold disposals for best consideration at a total rent over the term or a premium plus the total rent of between £200,000 and below £2m</p> <p>Final Terms and any variation in Terms, <i>including Right of Renewal</i>, for all transactions to be approved by the relevant Portfolio Holder</p> <hr/> <p>Any disposal of a leasehold interest in land for a term of <b>7 years or more</b> where the undervalue value is <u>less than</u> £2m <del>or less</del></p> <p><b>NB:</b> <u>In accordance with the General Disposal Consent 2003, the consent of</u></p>	<p>All leasehold disposals for best consideration at a total rent over the term or a premium plus the total rent of below £200,000, and all Terms for those transactions, including <i>Right of Renewal</i></p> <hr/> <p>=</p>

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TRANSACTION	CABINET	PROPERTY SUB CTTEE	OFFICERS Director of for Corporate Services  (see note 1 below)
	<p><u>term which has not more than seven years to run) is exempt from s123 requirements.</u></p> <p><u>However, disposals by way of a short tenancy (which is granted for seven years or less, or the assignment of a term, which has not more than seven years to run) do not need SOS's consent.</u></p> <p>Final Terms and any variation in Terms, including Right of Renewal, for all transactions to be approved by the relevant Portfolio Holder</p> <p><del>Any disposal of a leasehold interest in land for a term of 7 years or more where the undervalue value is £2M or more.</del></p> <p><del>NB: For an undervalue of £2m or more approval by the Secretary of State is required under Section 123 of the Local Government Act 1972 and General Disposal Consent</del></p>	<p><u>the Secretary of State is not required under s123 of the Local Government Act 1972 for an undervalue of less than £2m if the disposal helps to secure the promotion or improvement of the economic, social or environmental well-being of the area.</u></p> <p><u>A short tenancy (granted for seven years or less, or the assignment of a term which has not more than seven years to run) is exempt from s123 requirements.</u></p> <p><del>NB: For an undervalue of £2m or more and/or where the social economic environmental well-being criteria is not satisfied approval by the Secretary of State is required under Section 123 of the Local Government Act 1972 and General Disposal Consent 2003.</del></p> <p><del>However, disposals by way of a short tenancy (which is granted for seven years or less, or the assignment of a term, which has not more than seven years to run) do not need SOS's consent.</del></p>	

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TRANSACTION	CABINET	PROPERTY SUB CTTEE	OFFICERS Director <del>of</del> for Corporate Services  (see note 1 below)
	<p><i>2003. However, disposals by way of a short tenancy (which is granted for seven years or less, or the assignment of a term, which has not more than seven years to run) do not need consent.</i></p> <p><i>Final Terms and any variation in Terms, including Right of Renewal, for all transactions to be approved by the relevant Portfolio Holder</i></p>	Final Terms and any variation in Terms, including Right of Renewal, for all transactions to be approved by the relevant Portfolio Holder	
<u>Easements and Wayleaves (at best consideration)</u>	Any Easement or Wayleave where the total premium, consideration and/or rent over the term is £2m or more	Any Easement or Wayleave where the total premium, consideration and/or rent over the term is between £200,000 and below £2m	Any Easement or Wayleave where the total premium, consideration and/or rent over the term is below £200,000
<u>Easements at Undervalue</u>	<u>Any Easement where the undervalue value is £2M or more.</u>	<u>Any Easement where the undervalue value is less than £2m</u>	=

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TRANSACTION	CABINET	PROPERTY SUB CTTEE	OFFICERS Director of for Corporate Services  (see note 1 below)
	<p><u><i>NB: For an undervalue of £2m or more (including where the social economic environmental well-being criteria is not satisfied for an undervalue below £2m) approval by the Secretary of State is required under Section 123 of the Local Government Act 1972 and General Disposal Consent 2003.</i></u></p> <p><u>Final Terms and any variation in Terms for all transactions to be approved by the relevant Portfolio Holder</u></p>	<p><u><i>NB: In accordance with the General Disposal Consent 2003, the consent of the Secretary of State is not required under s123 of the Local Government Act 1972 for an undervalue of less than £2m if the disposal helps to secure the promotion or improvement of the economic, social or environmental well-being of the area.</i></u></p> <p><u>Final Terms and any variation in Terms for ALL transactions to be approved by relevant Portfolio Holder</u></p>	
<b>Charges</b> – to be granted to SCC over land disposed of with payments by instalments	Where land is disposed of with payment of a consideration in instalments in the future with a <i>total</i> value of £2m or more	Where land is disposed of with payment of the consideration in instalments in the future with a <i>total</i> value of below £2m	-
<b>Acquisition of Leases (where SCC is the Tenant) - Taking or surrendering</b>	Any lease where the total rent over the term or a premium plus the total rent is £2m or more	Any lease where the total rent over the term or a premium plus the total rent is between £200,000 and below £2m	Any lease entered into where the total rent over the term or a premium plus the total rent is below £200,000
<b>Licences (and tenancies at will) – Taking or granting</b>	Any licence where the total licence fee over the licence period is £2m or more	Any licence where the total licence fee over the licence period is between £200,000 and below £2m	Any licence where the total licence fee over the

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TRANSACTION	CABINET	PROPERTY SUB CTTEE	OFFICERS Director <a href="#">of-for</a> Corporate Services  (see note 1 below)
			licence period is below £200,000.
<b>Appropriations of Land</b>	All Appropriations as authorised under section 122 of the Local Government Act 1972 (or any subsequent re-enactment thereof) including land for planning purposes as defined in section 246(i) of the Town and Country Planning Act 1990 (or any subsequent re-enactment thereof)	=	=
<b>Other Transactions</b> <a href="#">(e.g. Overage and Clawback)</a>	Any disposal of land by Staffordshire County Council which contains overage or clawback should be reported to Property Sub-Committee but escalated to Cabinet if required.		
<b>Notices to Terminate a Lease</b>	) To be covered by general delegations to Director <a href="#">of-for</a> Corporate Services (Head of Property) and		
<b>Rent Review</b>	Director <a href="#">of-for</a> Economy Infrastructure and Skills ) )		
<b>Authorised Guarantee Agreements (where SCC is the tenant)</b>	Any departure from the policy of SCC of not entering into Authorised Guarantee Agreements in the capacity of Tenant – to be reported to Property Sub-Committee for initial consideration.		
<b>Dilapidations- Settling of claims where SCC has been the tenant</b>	Any claim totalling £2m or above	Any claim totalling between £200,000 and below £2m	Any claim totalling below £200,000
<b>Acquisition of land by private treaty in</b>	Acquisitions made in furtherance of a compulsory purchase order to be delegated to the relevant Director in accordance with the original cabinet authority for the compulsory purchase order		

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TRANSACTION	CABINET	PROPERTY SUB CTTEE	OFFICERS Director <del>of</del> for Corporate Services  (see note 1 below)
<b>connection with a Compulsory Purchase Order</b>			
<b>Development Agreements</b>	-	All [ <i>but escalated to Cabinet if required</i> ]	-
<b>Joint Use Agreements</b>	Covered in main Scheme of Delegation to SLT members		
<b>Removal of Restrictive Covenants</b>	Any removal where the payment is £2m or more	Any removal where the total payment is between £200,000 and below £2m	Any removal where the total payment is below £200,000
<b>Exclusivity/Lock out Agreements</b>	-	All [ <i>but escalated to Cabinet if required</i> ]	-
<b>Memorandum of Understanding</b>	Covered in main Scheme of Delegation to SLT members		
<b>Pre-emptions and Options</b>	Where the total value of the property is £2m or above	Where the total value of the property is between £200,000 and below £2m	Where the total value of the property is below £200,000

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#### Notes

1 Officers are reminded that before exercising any of the delegated powers below consideration should be given to whether there are any wider issues which should be taken into account which make it more appropriate for the decision to be made at member level.

To assist the following criteria is provided as a guide (although not exhaustive):

Officer Decision	Uncontroversial
	Covered by the sub scheme of delegation
	In accordance with agreed policy and budget provision

	Related to current/existing service provision
Member Level Decision	Controversial
	Direct impact on 'Customers'
	Politically Sensitive
	Not covered by policy or budget provision
	Related to new service provision/innovation

2. All decisions can be referred to a higher tier in the decision-making structure

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