

Slough Borough Council

Report To:	Cabinet Committee
Date:	13 th March 2025
Subject:	Asset Disposal Programme – Surplus Housing Revenue Account (HRA) Assets
Lead Member:	Councillor Chahal, Deputy Leader of the Council – Finance, Council Assets and Transformation
Chief Officer:	Pat Hayes - Executive Director (Regeneration, Housing and Environment)
Contact Officer:	Peter Hopkins – Director Property and Assets
Ward(s):	All
Key Decision:	YES
Exempt:	NO
Decision Subject To Call In:	YES
Appendices:	Appendix A – List of HRA non-residential assets to declare as ‘surplus’ Appendix B – site plans for the assets listed in Appendix A

1. Summary and Recommendations

- 1.1 This report seeks approval to declare those HRA non-residential assets identified in Appendix A as surplus to requirements to allow them to be marketed for sale. HRA has been consulted in accordance with the Council’s Asset Disposal Process that they do not have a viable use for these non-residential assets, and further to site due diligence and AADF assessment other Council directorates shall be consulted with to confirm that they do not have a viable use for these non-residential assets prior to any disposal process commencing. Decisions to dispose of assets will be brought back to Cabinet for those assets of £1m or more and are delegated to the Executive Director for assets to be disposed of at a value of under £1m, subject to these assets meeting the test for best consideration reasonably obtainable.

Recommendations:

- 1.2 Cabinet Committee is recommended to:
- a) Agree to declare surplus those HRA non-residential assets listed in Appendix A
 - b) Provide authority for all those HRA non-residential assets listed in Appendix A to be marketed for disposal subject to property, legal and

financial due diligence and any necessary liaison with local residents being completed, following being declared as surplus

- c) To note that for assets valued at more than £1m, a report will come to Cabinet to approve the disposal.

Reason

- 1.3 There are non-residential assets currently held within the HRA that are no longer required to fulfil their original purpose. There is greater benefit to the Housing Revenue Account (HRA) by selling them, than continuing to hold them, as this will reduce the financial burden for maintaining the land. The benefits from selling them will allow the HRA to be recompensed for any capital costs of acquiring or improving the asset. Selling them will also generate funds which could be used to enable further development / regeneration in the Borough.

Commissioner Review

"The Council is carrying out ongoing and periodic reviews of its property asset holdings as part of asset planning, good estate management and its asset disposal programme. Various assets have been identified that are either surplus to requirements or uneconomical to maintain. The report sets out the reasons why the assets are not suitable for retaining by the Council or as a regeneration or commercial opportunity. Where there is no longer any connection with the local authority's housing, the Council should consider their removal from the HRA by appropriating the property to a different purpose or disposal of the asset for the best price reasonably obtainable.

The Commissioners are content with this report being considered."

2. Report

Introduction

- 2.1 Members are aware the Council received a formal direction from what is now Ministry of Housing, Communities & Local Government (MHCLG) made under s.15(5) and (6) of the Local Government Act 1999, including a direction that prescribed functions are to be exercised by Commissioners; and the appointment of Commissioners from 1 December 2021.
- 2.2 A key component of the Directions is the need for the Council to demonstrate it can achieve financial sustainability.
- 2.3 Asset disposals have been a core element in the drive towards financial sustainability. Much of the emphasis to date, has been on delivering disposals from the General Fund (GF). The overall target for the Asset Disposal Programme is extremely challenging and it is necessary to generate capital receipts from the HRA as well as GF in this drive for financial sustainability.
- 2.4 There is a housing shortage within the Borough, particularly of affordable and social housing. Disposing of non-residential HRA sites will allow funds to be generated and provides the opportunity for these funds to be refocused on delivering housing solutions across the Borough generally. Furthermore, the capital receipts can be utilised to reduce HRA debt.

3 Options considered

- 3.1 The assets listed in Appendix A could potentially be developed / re-purposed internally and continue to be held within the HRA. This option could result in missing a significant opportunity to generate capital receipts whilst also reducing operational costs. **This is not recommended.**
- 3.2 Within the HRA there are non-residential assets, that are not required for housing purposes. Some assets listed in Appendix A are close to residential housing and residents shall be advised of forthcoming disposals. There are no properties formally classified as open space requiring publication of a notice and consideration of any representations in advance of a decision. The disposal of these assets would simplify the HRA portfolio, reduce the costs and liabilities associated with managing it and deliver capital receipts that provide a financial benefit, giving an opportunity for funds to be utilised to satisfy broader housing needs. **This is the recommended option.**

Background

- 3.3 The Housing Revenue Account (HRA) refers to the expenditure and income account relating to property listed in section 74 of the Local Government and Housing Act 1989 (“the 1989 Act”). By law, such property must be accounted for in this separate ring-fenced account. The properties comprise mostly of housing, but also include other property provided by authorities under Part II of the Housing Act 1985 (“the 1985 Act”).
- 3.4 At a basic level, the purpose of the ring-fencing is to avoid housing tenants and leaseholders subsidising Council taxpayers and vice versa. When deciding which assets should be “held” within the HRA, the Government guidance refers to a “who benefits” test and in certain circumstances, the expenditure may be apportioned to take account of shared benefit.
- 3.5 By law, all properties and land fitting within s.74 of the 1989 Act should be accounted for within the HRA and no other properties should be accounted for within the HRA without Secretary of State consent.
- 3.6 There will be occasions when an asset no longer fulfils its original purpose and in this situation the Council should consider removing it from the HRA by appropriating the property to a different purpose or to determine that it can be disposed of. Assets which may no longer be required or no longer fulfil the original purpose often include commercial premises such as estate shops, banks, post offices, industrial estates and surgeries.
- 3.7 This is particularly the case when redevelopment of an estate or sale of housing properties has changed the proportion of properties owned and rented by the Council on a particular estate reducing the connection between the commercial properties and the Council’s housing stock.
- 3.8 The Council’s record keeping on assets and the recorded rationale for assets being held in the HRA has historically been challenging. The Government guidance makes clear that there should be a clear basis for any decision to remove an asset from the HRA, such that this can be explained to external auditors and tenants if required. It is therefore important that the rationale for any decision on an HRA asset is clearly set out at the point a decision is made.
- 3.9 The assets listed in Appendix A fall into the following categories to justify a decision to market them for disposal:

Garage sites

- 3.10 The Council owns many garage blocks across the Borough. Many of these are now vacant sites, many have been demolished due to lack of demand and those that have garages remaining on the site are in a poor state of repair and in some cases attracting anti-social behaviour. The garage blocks provide development opportunities for the private sector and could be utilised to meet housing demand.

Land

- 3.11 The Council owns parcels of land across the Borough within the HRA. Many of these sites are vacant, cleared and undeveloped providing no, or low levels of income, but that still require maintenance. The parcels of land identified within Appendix A all provide development opportunities for the private sector and could be utilised to meet housing demand.

Lessons Learned

3.12

3.13 If the Council has a duty to notify and correspond with local residents who live near to the assets, such notification and correspondence must be carried out and sent prior to any decision to dispose of the asset and any representations must be taken into account by the decision maker.

- 3.14 Appendix B provides site plans for the HRA non-residential assets listed in Appendix A to be considered so that the location and extent of these sites is clear to Cabinet.

- 3.15 Further asset review work is to be undertaken and it is anticipated that this will identify further surplus HRA assets, which will be brought back to members for a decision.

- 3.16 The proposal to sell surplus HRA assets has other financial benefits. Disposing of surplus sites reduces the costs, liabilities and management burden associated with owning them, permitting HRA income be utilised for other purposes. The HRA Business Plan made clear that projects such as decarbonisation are challenging to finance, and rationalising the estate by disposing of surplus assets allows resources to be utilised more efficiently.

- 3.17 Selling surplus HRA assets also delivers non-financial benefits. Transferring the ownership of these assets is likely to enable investment in them (by the new owners). This should mean development coming forward (e.g. additional housing) and investment in assets where there is not likely to be a change of use arising from a sale. This provides benefits to existing housing tenants and the wider community (e.g. residents of the Borough).

4 Implications of the Recommendation

4.1 Financial implications

4.1.1 Cabinet Committee is asked to approve the declaration of a number of HRA non-residential assets surplus to requirements for the operational reasons set out in paragraphs 3.9 to 3.11 above. The assets are currently not income generating but are incurring management and maintenance costs, as well as depreciation, meaning they represent a net loss to the HRA. Despite this it is important that a full financial appraisal is undertaken to ensure that opportunities arising from these sights, which could override the potential capital receipt achievable, are not overlooked.

4.1.2 The sites provide an opportunity to provide capital receipts which can be utilised to reduce HRA debt. Should any excess capital receipts arise, they could be applied to the General Fund, reducing the debt required to finance the Exceptional Financial Support. That must be on the basis of “no detriment” to the HRA, which would need to take account of any outstanding debt, the values in the balance sheet and net present value assessment of future net incomes they could generate.

5 Legal implications

5.1 The ring-fencing of the HRA is established in law. The HRA must be self-sufficient and not operate at a loss. It cannot subsidise the General Fund. Government guidance was last provided in 2020 (Operation of the HRA ring-fence and HRA – Information and advice on HRA and consents for disposal of land from HRA), setting out further detail and the consents available to dispose of land from the HRA. Collectively these documents confirm and clarify the statutory provision:

(a) Expenditure and income relating to property listed in s.74 of the Local Government and Housing Act 1989 must be accounted for in the HRA. This comprises mainly of housing and other property provided under Part 2 of the Housing Act 1985.

(b) The HRA is primarily a landlord account containing income and expenditure arising from a housing authority’s landlord function;

(c) The “Who benefits?” test should be used to establish who should bear the cost and the ability for costs to be shared on a shared benefit principle;

(d) A property has to be accounted for within the HRA if it is currently provided under Part 2 or any other powers specified in s.74 of the 1989 Act – the account extends to any outstanding debts or receipts which arose when a property was so provided and which are still outstanding following its disposal.

(e) If a property is not provided under the powers listed in s.74(1) or covered by a direction under this section, the authority must not account for it in the HRA;

(f) If an authority wishes to include in the HRA property which is ancillary to Part 2 housing, but not provided under Part 2, it will be necessary to obtain consent from the SoS under s.12 of the 1985 Act.

(g) If a property was originally provided under one of the powers in s.74 of the 1989 Act, but no longer fulfils its original purpose, the authority should consider its removal from the HRA by appropriating the property to a different purpose. Examples include estate shops and other commercial premises, such as banks, post offices, workshops, public houses, industrial estates and surgeries where there is no longer any connection with the authority’s housing.

(h) Any transfer between the HRA and other revenue accounts will involve an adjustment to the HRA and other revenue accounts in accordance with paragraph 5(1) of part 3, Schedule 4 to the 1989 Act and HRA capital financing requirements.

5.2 Consent is required from the Secretary of State for any appropriation or disposal decision for housing assets. General Consents are provided to dispose or appropriate land or property under s.32 Housing Act 1985. These include

(a) Disposal for consideration equal to its market value and where no tenancies are impacted. Market value is defined as “an amount for which a property would realise on the date of the valuation on a disposal between a willing buyer and a willing seller in an arm’s length transaction after proper marketing where the parties had each acted knowledgeably, prudently, and without compulsion and where the market value is assessed no earlier than 3 months before the buyer applies or agrees to an offer in writing.

(b) A local authority may dispose of vacant land. Land is defined as buildings (which could include dwelling-houses, houses and flats) and other structures, land covered with water and any estate, interest, easement or right over land. Vacant is defined as land on which no dwelling-houses have been built or where dwelling-houses have been built, such dwelling houses have been demolished or are no longer capable of human habitation and are due to be demolished..

5.3 In order to make a decision that a housing asset should be disposed of, the Council should take the following steps:

(a) determine the historic use of the land to ensure it is properly held in the HRA;

(b) determine that it is no longer required for the original housing purpose. Reasons could include the asset no longer being sufficiently linked to Council tenancies, the level of tenanted properties compared to privately owned properties meaning the land is not sufficiently benefitting tenants, insufficient demand from Council tenants for services or amenities, eg. Garages.

(c) determine the value of the site and this represents market value or best consideration reasonably obtainable. If there is a proposal to dispose of land at less than market value, members should consider the rationale for this, including the social or environmental value.

(d) Determine the accounting arrangements for the disposal.

6 Risk management implications

6.1 The table below sets out the key risks:

6.2

Risk	Summary	Mitigations
Market / Economy	Challenging market conditions having an impact on the values that can be achieved	Continue to receive and react to market intelligence
Abortive Sales	Sales aborted where the best market offer could not be supported by SBC Finance	A new methodology for calculating minimum sales values is being adopted
Programme Target	The clarified target appears to be unachievable	Establishing what an achievable target would be

Risk	Summary	Mitigations
HRA Disposals	The process for disposing of HRA assets and recognising an element of the capital receipt in the General Fund had been unclear	Clarified through an EY commission which is the subject of a separate Cabinet report (May 2024), presented by Finance
Skills / Capability	Programme outcomes limited by the capacity and capability of resources	Additional surveyors recruited into Property team in April 2024

6.3 Environmental implications

6.3..1 No environmental implications have been identified as a direct result of this report.

6.4 Equality implications

The Council has a duty contained in section 149 of the Equality Act to have due regard to the need to: (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are:

- age
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

The broad purpose of this duty is to integrate considerations of equality into day-to-day business and to keep them under review in decision making, the design of policies and the delivery of services.

These assets are not used for operational or service delivery purposes. There are no identified equality implications arising from these proposals.

6.5 Procurement implications

6.5..1 There are no procurement implications.

6.6 Workforce implications

- 6.6..1 No workforce implications have been identified as a direct result of this report

6.7 Property implications

- 6.7..1 This report will directly impact on the Council's property holdings; however, this will be a positive impact in reducing property holdings to enable the Council to streamline its portfolio to focus on assets required for the operational and service delivery.

Background Papers

None.