

**By:** Anna Taylor – Scrutiny Research Officer

**To:** Scrutiny Committee – 20 July 2022

**Subject:** Call-in of Decision 22/00053 – Kent County Council Freehold Property Assets Disposal Policy

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## Background

1. The proposed decision was discussed at the **Policy and Resources Cabinet Committee on 4 May 2022** at which the proposed decision to adopt the Freehold Property Assets Disposal Policy was endorsed. The recommendation on the Record of Decision was updated in response to the Committee discussion as set out on the Record of Decision.
2. Following the decision being taken, the call-in request was submitted by Mrs Dean, supported by Mr Brady and Mr Hood, thus meeting the requirements for any call-in to be supported by a minimum of two Members from different political Groups.
3. The reasons of the call-in were duly considered by the Scrutiny Officer and determined to be valid under the call-in arrangements set out in the Constitution. Call-in reasons must align to one or more of the following criteria under s17.73 of the Constitution:

Members can call-in a decision for one or more of the following reasons:

- (a) The decision is not in line with the Council's Policy Framework,
  - (b) The decision is not in accordance with the Council's Budget,
  - (c) The decision was not taken in accordance with the principles of decision making set out in 8.5, and/or
  - (d) The decision was not taken in accordance with the arrangements set out in Section 12.
4. The reasons submitted for this call-in and are as follows:
  5. **17.73 (a) The decision is not in line with the Council's Policy Framework**

*"I refer to "Framing Kent's Future" the County Council's Strategic Policy Statement, "Vision for Kent" the County Councils Community Strategy, and "Civil Society Strategy" referenced in Framing Kent's Future.  
In none of these documents can I find any reference to an obligation on the VCS and Parish Councils to provide quantified evidence of the value of their contribution towards working with KCC as a partner across any services. Other considerations are to be taken into account in order to achieve the best outcomes for Kent people, including sustainability, better services, better health, transfer of responsibility to*

*communities and individuals, and reshaping of KCC commissioning services from one size fits all to delivering more localised services.*

*The report to P and R on 4th May contains the following statements.*

*2.3 Whilst there are options where community value or other policy matters can be considered, the financial position is such that unless there is a cost benefit from a community bid which will have a direct impact on the delivery of KCC statutory services, where the opportunity benefit can be monetarised, the best financial and commercially viable bid will be taken forward.*

*4.1 Where proposals are able to evidence a reduction in statutory service costs, these will be taken into account as part of the evaluation of any bids, but must be evidenced, deliverable and legally binding.*

*6. 9 The decision to accept an offer is based on a balanced blend of considerations but will normally be the highest financial offer which has the best chance of completion in a timely way. It may account for other considerations such as social / community return where there is a proven and quantified case that there is an overall benefit to the Council's statutory service delivery and this presents a higher financial return to the Council compared to the best commercial bid.*

*Conversely in the Council's Policy Framework documents, Framing Kent's Future, Vision for Kent and the associated Civil Society Strategy, a number of statements are made about the need to work collaboratively for a wide variety of reasons with VCS and Parish Councils. I quote a selection below. Nowhere can I find any reference to these policies including an obligation on the VCS to prove its monetary value to the council. Instead, other benefits are taken into account to make a holistic judgement. The Disposal Policy is not clear about how it is comparable with these holistic policies.*

*Framing Kent's Future. P 10 - Working more closely than ever before with our partners gives us the best chance of delivering better outcomes whilst making the most of our resources collectively - taking the view that what the council needs is wider than our own organisation's services and budgets.*

*P34 - Community action, often facilitated by active Parish Councils is strong in many rural areas and is an asset that can be harnessed to tackle some of the issues communities face, including meeting the needs of an ageing population, social isolation, transport and access to services and opportunities. In order to support a modern and prosperous rural Kent, we need to ensure that Kent's rural areas have the social, physical and business critical infrastructure in place that communities .....need to succeed.*

*P21 – Ensure that as we redesign the way we deliver our services and adapt our physical presence in communities, we make these places accessible and inclusive for local community groups and the voluntary, community and social enterprise sector, offering a space for people to meet or use these assets to deliver activities.*

*P 53 – We will Work within the system to ensure a strong focus on preventative community services, building a strong relationship with the social sector in Kent and their role in supporting a system with focus on prevention.*

Vision for Kent

Ambition 3 To Put Citizens in Control, includes the following two commitments"

2 to encourage a more resilient society, where communities identify local priorities and have more influence and involvement in the shape and delivery of services , which overcomes the need for remote and one size fits all solutions from public agencies

3 To support the Voluntary and Community Sector to become more entrepreneurial, so the sector can expand and deliver more value for public sector investment, while retaining their independence. "

*Additionally at pages 8 and 9 the following appear.*

*" We recognise that there is an appetite from voluntary and community groups parish and town councils and the faith sector to become more involved in public services in a range of ways, up to and including direct delivery. We welcome this ambition and.... will work with others to support greater engagement in delivering services that are both localised and sustainable. "*

*Page 9 - " We have ambitious plans to encourage the growth of charities and social enterprises that can take on more responsibility for providing services. "*

*The Civil Society Strategy very recently approved by KCC, is referenced in Framing Kent's Future. It contains the following statements.*

*" Fair Funding as an enabler to a sustainable social sector.*

*Why is this important - Our infrastructure offer is one way of supporting the sector, but our own funding practices must equally support not destabilise the sector. If these are right, then it will enable continued diversity in those that deliver services funded by the Council but also help to ensure our grants and contracts are accessible to a wide range of organisations, without creating dependency and threatening the independence of some organisations*

**6. 17.73 (c) The decision was not taken in accordance with the principles of decision making set out in 8.5,**

8.5 (b) There has been no due consultation.

*The Property Assets Disposal Policy shows no consultation has been held with any partners in the social sector, VCS or KALC for Parish Councils, concerning the impact of this policy change on their activities. The P and R paper only is listed under "consultation".*

*Councils Policy Framework: Framing Kent's Future: Equality objectives states*

*" we need to have honest and ongoing conversations with people in Kent about their needs and expectations for all the services we provide collectively, so we can better prioritise the way we use our resources."*

8.5 (d) Duty of Openness.

*There is insufficient openness in describing the manner in which Community groups including Parish Councils can prepare the Business Plans required by the Strategy, including in particular the calculation of Social Value and preventative*

*services, in such a way that a bid could exceed the highest commercial bid on the open market. The Social Value of Green Spaces is particularly problematic.*

#### 8.5 (e) Clarity of aims and desired outcomes.

*The report in several places refers to the need for KCC to accept the highest market price achievable in a 'timely manner'. Effectively these will be unconditional bids. It also refers to consideration being given to Community bids but places restrictions on the latter which require the preparation of a business case based on Social Value calculations, evidenced, deliverable and legally binding reductions to KCC in service delivery, and proven and quantified need for statutory services. It is unclear whether all, or any of these are required for a commercial bid to succeed. It is unclear what level of monetary value would secure success for an unconditional commercial bid above an unconditional Community Bid which satisfies all other KCC considerations. Would 1p be enough?*

*With regard to assets where a Community has successfully gained registration of the asset as an Asset of Community Value, it appears that KCC will, immediately after the six month moratorium period, place the asset on the open market. This would have the outcome that any applicant for ACV status would need to be certain, when requesting ACV listing, that by the end of the six months, all the funding for their bid would have been secured. This may not be achievable, eg for a Parish Council, the PWLB application process requires community consultation, and agreement within a Local Authority Budget cycle. These requirements by KCC may frustrate national legislation which was formulated to assist Community Groups in taking over such buildings.*

#### 8.5(f) Explanation of the options considered and giving reasons for decisions.

*The conclusion of the Record of Decision decision papers here suggests that preference for community bids are 'considered financially unviable'. The Cabinet Member stated at P and R that KCC would no longer be able to agree 'so many' of these bids. No clear explanation has been given about the manner in which a Community Bid could be successfully prepared to meet KCC specifications and beyond a few headings, how it would be evaluated.*

*No quantified monetary explanation is given, and no 'scoring' grid of bids against criteria is provided after an award so a Community group would have no previous examples on which to base the likelihood of success.*

*This is important since the preparation of a community bid may carry a significant cost to any community group in consultancy on Business Plans, Social Value, etc in addition to normal building valuation and condition surveys.*

### **Process**

7. As per the call-in procedure, Democratic Services must consider all call-in requests against the criteria detailed in the constitution, which are themselves based on the legal requirements under the Local Government Act 2000 to have an appropriate

mechanism to allow Executive decisions to be scrutinised. This call-in has been assessed as valid in that it meets the constitutional requirements for call-in that a justification, that aligns with the headings contained within the constitution, has been provided. In determining its validity no judgement is passed on the reasons put forward by the Members, this is for the Scrutiny Committee to review and determine.

8. The Cabinet Member or his representative and relevant Officers will be attending the Scrutiny Committee meeting to present their response to the call-in.
9. The Scrutiny Committee should consider the reasons set out by the Members calling-in the decision and the response from the Executive given at the meeting, giving due attention to the information made available during questioning and discussion on this item.

### **Options for the Scrutiny Committee**

10. The Scrutiny Committee may:
  - a) make no comments
  - b) express comments but not require reconsideration of the decision
  - c) require implementation of the decision to be postponed pending reconsideration of the matter by the decision-maker in light of the Committee's comments; or
  - d) require implementation of the decision to be postponed pending review or scrutiny of the matter by the full Council.

### **Appendix**

- [Record of Decision – 22/00053](#)
- [Decision Report – 22/00053](#)
- [Decision Report Appendix A – Disposals Process](#)
- [Decision Report Appendix B – KCC Freehold Property Assets Disposal Policy](#)

### **Background Documents**

[Policy and Resources Cabinet Committee, 4 May 2022](#)

### **Report Author**

Anna Taylor, Scrutiny Research Officer  
[Anna.taylor@kent.gov.uk](mailto:Anna.taylor@kent.gov.uk)  
03000 416478