

By: Alex King, Deputy Leader
Head of Democratic Services and Local Leadership

To: County Council – Thursday, 22 July 2010

Subject: Proposed changes to the Property Management Protocol

Classification: Unrestricted

FOR DECISION

1. Proposed amendments to the Property Management Protocol are enclosed at **Appendix 1**.

2. These changes clarify the reporting lines for Kings Hill where it is proposed that the decisions relating to the acquisition, management and disposal of land in the sole ownership of KCC should rest with the Cabinet Portfolio Holder for Corporate Support Services and Performance Management. Any decisions relating to the joint venture partnership under the Kings Hill development agreement would be dealt with by the Cabinet Member for Regeneration and Economic Development in consultation with the Cabinet Member for Environment, Highways and Waste with the advice of the Executive Director for Regeneration and Economic Development.

3. In addition, reference is now made in the Protocol to the Financial Regulations. The amended titles of both Cabinet Members and Officers are also included for accuracy.

4. Selection and Member Services considered the proposed amendments to the protocol at its meeting on 2 July 2010. It agreed to recommend them to the County Council for adoption.

Recommendation:

5. The County Council is asked agree the proposed amendments to the Property Management Protocol.

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Property Management Protocol

Introduction

1. This Protocol provides a framework of principles, minimum requirements, levels of authority and delegations to ensure that KCC property is managed effectively to achieve maximum value for money.

Overarching principles

2. A set of overarching principles govern the operation of this Protocol. These are:
- (1) All property owned or leased by KCC is held corporately (including KCC-owned schools, but not including Voluntary Aided, Foundation, Trust and Academy Schools).
 - (2) The Director of Property (in consultation with the Cabinet Member for Corporate Support Services and Performance Management) is responsible for ensuring that the occupation of all KCC property by Directorates is in accordance with best management practice and in the interests of the Council as a whole, with the authority to direct the use, disposal or acquisition of any land or property within the Council's budgetary framework and decision-making process.
 - (3) Directorates have discretion to manage the property they occupy in order to promote effective service delivery. However, this discretion operates subject to the corporate responsibilities of the Director of Property, who (in consultation with the Cabinet Member for Corporate Support Services and Performance Management) has the authority to intervene in property matters to protect KCC's overall interests.
 - (4) Resolution of disputes on property matters is through the Cabinet Member for Corporate Support Services and Performance Management and then, if necessary, the Leader.
 - (5) All property transactions should be referred to the Director of Property who will consult with the Cabinet Member for Corporate Support Services and Performance Management and seek the comments of all interested parties, including other relevant Cabinet Members, Directorates and Local Members, before the decision is taken to proceed. All decisions must be taken in accordance with the delegations set out in this Protocol and the decision making procedures set out in the County Council's Constitution.
 - (6) This Protocol is organised in sections to reflect the lifecycle of property (acquisition – management in use – disposal) with additional requirements to support specific initiatives and exceptional circumstances.

ACQUISITIONS

3. Objective: To ensure that land and property requirements are appropriately identified and appraised; and that all acquisitions have the necessary authority and

funding, including an assessment of the impact on revenue of funding from borrowing.

4. All acquisitions (freehold and leasehold) must be authorised by the Director of Property (following consultation with the Cabinet Member for Corporate Support Services and Performance Management, the Director of Finance, other relevant Cabinet Members, Directorates and Local Members) either in accordance with the delegations set out in paragraph 32, below, or the decision making procedures set out in the Council's Constitution.

Non-Highways Acquisitions

5. For all non-highways acquisitions, the relevant Directorate will provide the Director of Property with:

- (1) A definition of the service requirement giving rise to the proposed acquisition
- (2) A full financial appraisal of options for meeting service delivery requirements (developed as appropriate with support from the Property Group and in accordance with the Project Appraisal Handbook)
- (3) An evaluation of the potential (if any) for joint use

6. The Cabinet Member for Corporate Support Services and Performance Management will be consulted on all proposed acquisitions and kept informed of their progress and will determine if s/he or an officer will give approval for the acquisition. The Cabinet Member for Corporate Support Services and Performance Management may at any stage direct that a decision be referred to him/her.

7. Where the Cabinet Member for Corporate Support Services and Performance Management has determined that s/he will take the decision on a proposed acquisition, the matter will be dealt with in accordance with the appropriate provisions of this Protocol and decision making procedures set out in the Council's Constitution. Local Members and the Cabinet Scrutiny Committee will be sent a copy of the officer report at the same time as the Cabinet Member for Corporate Support Services and Performance Management, so that they may comment to the Cabinet Member for Corporate Support Services and Performance Management if they so wish.

8. Subject to paragraph 12 below, the use of compulsory powers for acquisitions must be agreed by both the Cabinet Member for Corporate Support Services and Performance Management and any other relevant Cabinet Member(s).

Highways Acquisitions

9. The Executive Director for Environment Highways & Waste will, in the case of all highway acquisitions, seek Local Member views as part of the consultation process for highways and traffic schemes.

10. Highways scheme design and cost (including land acquisition) shall be approved by the Cabinet Member of Environment, Highways & Waste and the

Executive Director for Environment Highways & Waste (or officer authorised by him/her), in accordance with the Financial Procedure and processes.

11. Highways acquisitions may be made by the Director of Property in consultation with the Cabinet Member for Corporate Support Services and Performance Management provided the scheme is in an approved programme or falls within blight policies.

12. All other highways acquisitions (i.e. land not incorporated in the highway) will be referred by the Director of Property to the Cabinet Member for Corporate Support Services and Performance Management, who will determine if s/he or an officer will give approval for the acquisition. Once the principle of acquisition of land is agreed, any decision whether or not to use compulsory powers will be decided by the Cabinet Member for Environment, Highways & Waste in accordance with the terms of this Protocol and the decision making procedures set out in the Constitution.

MANAGEMENT & USE

13. Objective: To ensure that property is used efficiently, effectively and economically with due regard to legislative requirements; and that when it is no longer required for operational purposes it is formally declared surplus, at which point its management reverts to the Director of Property, and the budgetary implications of this are identified and reported to the Cabinet Member for Corporate Support Services and Performance Management.

14. The occupation and use of property by a Directorate is subject to the authority of the Director of Property (in consultation with the Cabinet Member for Corporate Support Services and Performance Management) to approve all material changes to property, including change of use, appropriations, granting/taking of interests, reversion to operational use, alterations or additions. Such changes must be reported to the Director of Finance for correct accounting treatment and apportionment of charges.

Premises Management

15. The Director of Property has the authority to undertake reviews of the property portfolio, or parts of it, to determine if it is optimised in terms of its utilisation, cost and value and within this to challenge the retention or use of existing properties occupied by Directorates.

Building works

16. Major capital works for properties should be subject to a formal project appraisal and should be consistent with existing financial approval and procurement processes.

Health & Safety

17. Staff are required to ensure that in respect of all property matters all obligations under health and safety legislation and KCC health and safety policies are followed.

DISPOSALS

18. Objective: To ensure that land and property surplus to operational need is either reallocated to meet alternative needs or sold in line with statutory requirements and/or KCC policy.

19. Directorates will notify the Director of Property of:

- (1) Any property (or part) that is:
 - (a) Vacant
 - (b) Held against a future operational need
 - (c) Not used for the principal purpose for which it is held
 - (d) Likely to be surplus to requirements (with estimated time-scale)
- (2) Any operational issues associated with such property (e.g. longer term requirements)
- (3) Any statutory/process issues relevant to its disposal (e.g. established consultation processes, reference to the Secretary of State, etc)
- (4) The recipient of the capital receipt and its intended use, as agreed with the Cabinet Member for Corporate Support Services and Performance Management and the Director of Finance
- (5) Any other issues which need to be considered prior to disposal

20. The Director of Property may identify any property (or part) that s/he considers is, or could be made, surplus to operational requirements.

21. The Director of Property will consult with the Cabinet Member for Corporate Support Services and Performance Management on all disposals and inform him/her of the comments of Local Members. The Cabinet Member for Corporate Support Services and Performance Management will determine whether s/he or an officer will give approval for disposal in accordance with this Protocol and the decision making procedures set out in the Council's Constitution.

Treatment of Capital Receipts (Rules and Processes)

22 Capital receipts from disposals are deemed to be 'Earmarked Capital Receipts' or 'General Receipts'.

- (1) Earmarked Capital Receipts – are proceeds from the sale of an identified (named) site (or number of sites) to be used for the funding of a specific scheme (or number of schemes); where the schemes are intrinsically linked
- (2) General Receipts are where receipts are not intrinsically linked (generally non-operational and surplus land and property), and they are applied to the overall capital programme, including reducing the impact of revenue and reinvestment.

- (3) Treatment of all receipts needs to conform to the Financial Regulations and the Capital Procedures and Process.
- (4) The decision as to whether receipts are earmarked or general shall be taken by the Cabinet Member for Finance.

SPECIAL PROVISIONS

Kings Hill

23. All decisions relating to the acquisition, management and disposal of land or property in the sole ownership of KCC or occupied by KCC at Kings Hill shall be dealt with in accordance with this Protocol and the decision making procedures set out in the Council's Constitution by the Cabinet Member for Corporate Support Services and Performance Management with the advice of the Director of Property in consultation with the Cabinet Member for Regeneration and Economic Development.

24. All decisions and duties, including attending the Partnership Board and other such meetings, relating to the joint venture partnership under the Kings Hill development agreement (and subsequent variations) shall be dealt with by the Cabinet Member for Regeneration and Economic Development in consultation with Cabinet Member for Environment, Highways and Waste with the advice of the Executive Director for Regeneration and Economic Development.

Enterprise Fund

25. All transactions (acquisitions and disposals) undertaken through the Property Group 'Enterprise Fund' will be supported by a business case containing as a minimum:

- (1) Details of the proposal
- (2) The rationale for making the investment (against the agreed investment criteria for the Enterprise Fund, which may be varied from time to time)
- (3) Specific objectives to be met
- (4) The cost or income to KCC (revenue and capital)
- (5) The opportunities to be gained
- (6) Any return on investment

26. All transactions coming within the Enterprise Fund balancing limit of £10m may be authorised jointly by the Director of Property and Director of Finance in consultation with the Cabinet Member for Corporate Support Services and Performance Management, the Chief Executive and the Leader (subject to the delegations contained in paragraph 32).

27. All transactions which cause the Enterprise Fund to exceed its balancing limit of £10m will, following consultation with the Group Managing Director and the Leader,

be recommended by the Director of Property and Director of Finance for decision by the Cabinet Member for Corporate Support Services and Performance Management.

Urgent Decisions

28. In exceptional circumstances, where an urgent decision is required on property matters, this will be taken by the Director of Property in accordance with the provisions of this Protocol and only after consultation with the Cabinet Member for Corporate Support Services and Performance Management, the Director of Finance and the Director of Law & Governance. If the matter is outside the delegations set out in paragraph 36, below, then the matter can only be authorised by the Cabinet Member for Corporate Support Services and Performance Management in accordance with the procedures for the taking of urgent decisions set out in the Council's Constitution.

29. Any decisions made under the 'Urgent Decision' arrangements will be reported to the relevant Managing Director, Cabinet Members and Local Members.

Financial Regulations

30. All of the protocols set out in Financial Regulations and Schemes of Delegation must be adhered to, except where this Property Management Protocol specifically provides for alternative levels of authorisation. No transaction should be approved unless specific budgetary provision is identified, except where the purchase is approved under the authority given in Paragraph 27 above.

Reporting

31. The Director of Property will prepare each month a schedule of acquisitions and disposals dealt with by the Cabinet Member for Corporate Support Services and Performance Management or by him/herself, and send this to Democratic Services for publication.

Delegation to Officers

32. Subject to the consultation provisions set out in this Protocol, the Director of Property is authorised to:

- (a) Determine and settle the acquisition or disposal of any land or property, or an interest in land or property where the consideration (including any associated works) does not exceed **£1,000,000** in any single transaction.
- (b) Determine and settle the terms of a lease (taken or granted) for any land or property, not exceeding a period of 20 years or where the consideration does not exceed **£100,000** per annum in any single transaction.
- (c) As provided by arrangements made under Appendix 2 Part 4 of the Constitution for the Leader to discharge executive functions, the Group Managing Director may exercise any power delegated under this protocol to the Director of Property; and the Director of Property may delegate his/her powers in writing to more junior officers.

Supporting Mechanisms

33 Whilst having no Constitutional or decision-making status, the management of property will be exercised through a variety of mechanisms which amplify and support this protocol. The key mechanisms and their purpose are summarised below:

- (a) **Property Board** chaired by the Group Managing Director provides a forum to discuss and agree the strategic direction for property management and key property related initiatives. It provides a mechanism to assess whether this protocol is working in practice and to identify and resolve issues with regard to corporate and service responsibilities.
- (b) **Project Advisory Group (PAG)** considers capital projects and significant changes to capital projects and ensures that proper planning and processes have been followed and risk assessments undertaken in line with the Council's Constitution, the project appraisal handbook and associated financial procedures. It makes recommendations to the Leader for schemes to be included in KCC's capital programme.
- (c) **Property Group Business Plan** prepared in accordance with KCC's planning guidelines identifies the main priorities of the Property Group and includes as an annex a schedule of properties for disposal. This provides delegated authority to proceed with disposals in line with the provisions of this protocol.
- (d) **Medium Term Financial Plan** sets out KCCs spending priorities and/or financial allocations over the medium term. All capital schemes are subject to the appraisal and decision making processes around the Capital Programme and the Medium Term Financial Plan.

Information to the Council and Scrutiny

34. The Director of Property will prepare each month a schedule of property transactions dealt with by the Cabinet Member for Corporate Support Services and Performance Management or him/herself, and send this to Head of Democratic Services for publication.

35. Transactions proposed to be authorised by the Cabinet Member for Corporate Support Services and Performance Management are subject to the normal processes of publication and scrutiny for Cabinet Member decisions.

