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To: Scrutiny Committee, 17 September 2025

Subject: Kent County Council's Asset Disposal Strategy

Classification: **Unrestricted report with Exempt Appendix 2**, *not for publication under Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).*

Summary: This report outlines the statutory and fiduciary framework for disposing of Kent County Council (KCC) surplus freehold assets to generate capital receipts. It then considers the current programme and particularly its direction of travel.

Recommendation(s): The Scrutiny Committee is asked to note the report.

1. Background

- 1.1 KCC runs an Assets Disposal Programme where it seeks to dispose of its surplus assets i.e. assets that it no longer needs or can derive some benefit from.
- 1.2 The receipts raised through this programme are used to reinvest in KCC's key priorities as determined by Full Council, which includes details of any capital receipts that the Council needs to deliver its capital programme. The use of capital receipts can be an alternative to borrowing for those areas that are identified as priorities for the Council but are not funded via grants. For example, maintenance/ capital works across the estate or education where the grant is insufficient. In recent years following a government directive KCC has also used capital receipts to fund transformation activity in the revenue budget.
- 1.3 In relation to Freehold disposals there are two broad essential elements to consider:
 - Assets surplus to KCC's requirements should be disposed of.
 - The disposal should be in accordance with a Local Authority's statutory duties.
- 1.4 **Surplus Declaration:** Councils are expected to manage their assets efficiently under principles of value for money and financial sustainability. Holding unused assets can incur costs (e.g. maintenance, security, business rates), so declaring them surplus is often a practical necessity to reduce financial pressure and reutilising the value of the asset for reinvestment thus mitigating the need to

borrow or commit more budget than would otherwise be necessary. Similarly, vacant held property presents “holding risk” which can expose the Council to legal, financial and reputational possibilities, particularly when budgets are stretched.

- 1.5 **Legal Duties:** The key statute regarding property asset disposals is s123 Local Government Act 1972, where a Council has a duty to obtain “Best Consideration” for its assets. There are several other statutes and legal instruments that impact on disposals such as The Localism Act, some Educationally focused legislation, planning acts etc.
- 1.6 **Key Legal Instrument:** However, the other real key instrument is the General Disposal Consent Order 2003, which provides a degree of flexibility by allowing local authorities to dispose of land at less than best consideration without needing specific consent from the Secretary of State, provided the undervalue is £2 million or less and the disposal promotes economic, social, or environmental well-being for the area.
- 1.7 The current Assets Disposals Programme for 2025/26 is identified in KCC’s Medium Term Financial Plan (MTFP) and is currently targeted to deliver (depending on market conditions, identification of surplus assets and their value etc.) £14m to £22m in the financial year.

2. Holding Assets and their Disposal

- 2.1 Under Section 123 of the Local Government Act 1972, a disposal refers to any transaction involving the transfer of an interest in land. This includes:
 - Selling the land/Property outright (i.e. Freehold);
 - Leasing it for a term exceeding seven years (Whether that is on a commercial rent basis or a longer lease where a “premium” is usually accepted in lieu of a rent);
 - Exchanging it for another asset;
 - Granting easements or rights over the land.
- 2.2 It is also important to consider the broad reasons for holding assets, which are detailed below – in all instances the reason for holding a property is supported by KCC statutory duties and its policies.
 - **Operations / Service Delivery** e.g. school, library, office or depot (and these may be occupied by KCC directly or leased in conjunction with a commissioning contract).
 - **Community Benefit** e.g. Country Park facilities which are directly occupied for management by KCC or nurseries, preschools, community interest organisation where they lease an asset to deliver some service that benefits the community (KCC refers to this as “policy return” assets relating them directly to KCC’s statutory and policy objectives.)

- **Economic Development** e.g. Real Estate that's held to facilitate, enable or support the economy or local regeneration e.g. land held for specific development requirements or stimulate regeneration like Thanet Parkway, Turner Contemporary, Kings Hill and Manston.
- **Strategic Control or Future Use** e.g. land held for Infrastructure schemes or where it is considered that service provision may need to grow.
- **Investment and Financial Purposes** e.g. Property held because it can produce an income, capital growth etc. to support KCC's budgets. It is this area too where surplus assets are held and sold to raise capital for reinvestment purposes.

2.3 KCC policy and responsibilities evolve and as a result the nature of KCC's asset holdings also changes to align itself with Council priorities and requirements. The Council's Asset Disposal Strategy is attached in Appendix C along with the specific questions that have been raised (in appendix A). Given the nature of questions this paper is focused on KCC's Freehold Disposals Programme. The paper will also not consider freehold disposals required for statutory reasons (such as freehold transfers for qualifying schools).

3. Kent County Council's Freehold Disposals Policy

- 3.1 The sale of freehold assets over a value of £10,000 generates a "capital receipt". These receipts minus the associated disposal costs are used to fund the Council's Capital Programme instead of borrowing, or can be used to pay down capital debt, or in recent years following government directive funds have been used to fund transformation activity in the Council. The capital programme financial requirement has, over the years, been considerably more than the disposal receipts generated through the Disposal Programme, resulting in KCC funding the gap via alternative sources, such as prudential borrowing, planning s106 monies etc.
- 3.2 On the 30 July 2022, KCC's Freehold Disposals Policy was implemented to provide clarity on KCC's approach when disposing of its freehold assets. This not only considered the statutory and fiduciary framework that KCC must follow as a Local Authority, but also gave definition to how, given its budget pressures, KCC will execute the process.
- 3.3 In particular KCC was keen to give clarity on how it considered disposals and their evaluation. Local Authorities are often placed under pressure to consider alternatives for its land and property assets, mainly in respect of social value / policy return. The policy derived an approach in terms of opportunity cost, specifically relating it back to KCC's financial position where difficult decisions were being taken regarding its services and necessity to remain compliant in terms of its duties in relation to the budget.

- 3.4 The Policy is based upon a transparent approach to KCC's statutory and fiduciary requirements, property disposal management and best practice ensuring a fair even-handed approach.
- 3.5 The full report and policy (Decision No. 22.00053) is in appendix C. The policy was considered to have a 5-year life expectancy whereupon circumstances were to have been reconsidered, and the policy adjusted accordingly.

4. The process of Disposal

4.1 The process is described as follows:

- Disposals will comply with KCC's statutory and fiduciary duties and consider the use of powers it has under various instruments.
- Management and decisions relating to a disposal asset will be conducted in accordance with KCC's constitution and more specifically (but not limited to) its Property Management Protocol as set out in the Councils Constitution.
- Assets for disposal must first be declared surplus. Before an asset can be declared surplus, a process that examines whether there is a purpose to continue holding the asset must be completed. This process is described in answer 4 of appendix A.
- All disposal assets will be properly assessed to understand potential and the most appropriate action necessary to meet it.
- Depending on the asset type, 5 main routes to disposal are identified with slightly differing approaches. These are assets to be:
 - openly marketed
 - sold to a special purchaser
 - sold because a third party has requested it and the value is considered De Minimis
 - transferred/sold under statutory requirements
 - transferred to rectify matters arising from historical reasons.
- All routes must satisfy minimum consultation, transparency, advertising and due diligence requirements and in all instances in compliance with KCC's constitution and legal requirements

4.2 Criteria Considered at Evaluation:

- Time, cost and risk of continuing to hold the asset.
- Confirmation / demonstration that all statutory requirements have been satisfied.
- The financial consideration being offered.
- The conditions precedent, if any, of the offers being held.
- The estimated time until conditions being satisfied.
- Ability and likelihood of applicant to complete.
- Additional non-monetary returns.
- Assessment against other due diligence as required.
- Where it is to be transferred to a special purchaser, that the transparency conditions have been met.
- Any comments following on from consultation activity.

4.3 Evaluation Criteria:

- Ability to complete the transaction within accepted timescales – ensuring KCC does not hold surplus assets with their associated costs and risks longer than necessary or have to remarket and sell incurring additional costs.
- Financial Case – KCC will prioritise best financial consideration - ensuring that resources generated and saved can be redirected to KCC's statutory service and policy priorities as much as possible. All disposals are undertaken to comply with KCC's statutory and fiduciary duties where valuations and/or a compliant marketing process is undertaken for s123 assurance.
- Social / Community Value Considerations – will be considered as an “Opportunity cost” where there is a proven case that there is an opportunity for KCC to save or reallocate its budget to deliver its statutory services.

This is assessed as follows:

(Highest Acceptable Offer) – (Social Value Offer) = (Benefit Cost)

Where (Benefit Cost) must be at least equal to a sustainable service saving or budget reallocation plus demonstratable additional Social / Community benefit.

- 4.4 This was to ensure that investment is prioritised towards KCC's statutory and policy requirements in the first instance, but that where Social / Community return can demonstrate added value to KCC service delivery over and above this, that it is considered.

4.5 The policy was designed with flexibility in terms of its implementation, though with a framework of requirements to ensure best financial consideration and opportunity cost.

4.6 Other approaches were considered, such as preference or increased weighting during evaluation to be given to community or other policy objectives, such as affordable housing but these approaches were rejected because:

4.6.1 Social Return might be valid it can be used to define a wide range of activities which do not align with KCC's delivery requirements, as the outcomes benefit other public organisations, such as social housing, leisure, or health services, which are not KCC's responsibility. Recognising this may discourage those organisations who do have responsibility and funding for these services from contributing fairly and at a time when KCC is making difficult decisions about how its services are delivered.

4.6.2 If KCC's capital receipts are reduced there is less to reinvest in its own services, increasing risk of falling short of statutory delivery. Proceeds from the disposal of assets are re-invested into its executive priorities, such as School Places and/ or to reduce the need for borrowing and associated revenue costs.

4.6.3 Given KCC's budgetary position and need to prioritise its statutory provision, plus the resource implications for running such a programme, the alternative "opportunity cost benchmarking evaluation" was considered more practical than the council supporting Community Asset Transfer (CAT), a process whereby the community are enabled to own or manage assets that support local services, social enterprise, or regeneration. The enabler for this is the General Disposal Consent Order 2003. CAT is a voluntary arrangement involving value transfer and the process often includes evaluation of business cases involving considerable resource and expert due diligence.

5. Local Government Reorganisation

5.1 One particular area that may need consideration in the future is Local Government Reorganisation (LGR), aiming to abolish two-tier government by 2028. At present, KCC has not received specific guidance from Central Government about how LGR will be implemented in Kent and Medway; further details are expected between May and August 2026. It is expected that based on the current timetable that as the LGR deadline of 2028 approaches that directions will be given by Central Government in respect of disposal activity along with other expenditure including capital commitments. These directions will apply to all Local Authorities who are part of LGR in Kent and Medway. Until directed otherwise, KCC remains

responsible for making decisions in the best interests of Kent taxpayers and disposing of assets it no longer requires.

- 5.2 As part of the scheme of delegation, the Director will consider all relevant factors including financial considerations, any pending LGR decisions, and applicable legislation before finalising any contract agreements.

6. 2025 / 2026 Programme

- 6.1 The programme comprises 7 assets actively being marketed, a pipeline of 22 assets that are expected to be sold this year yielding between £14m and £22m of value. The wide range estimate is because disposals are based upon several assumptions including conditions precedent and timing to completion along with market conditions. To contextualise the size of the programme, in 2024/25 the final receipt outturn was £21m from 16 surplus assets sold.
- 6.2 The number of assets required to deliver capital receipts vary depending on the development/re-use potential, perception of liability etc. and will often come down to location, size, condition and encumbrance factors.
- 6.3 Over the last 10 to 15 years, many of the larger and more attractive development sites have been sold. Presently the Disposal Programme is based upon a steady flow of disposal assets coming through the pipeline following service realignments and changes. Presently there has been no consideration given to Local Government Reorganisation with either a requirement to accelerate or slow down the programme.
- 6.4 Attached at exempt appendix B is a table of disposals achieved in each financial year which places the Disposals Programme into context. It should be noted that the number and financial return from disposals will vary from year.

7. Recommendation(s)

- 7.1 The Scrutiny Committee is asked to note the report.

8. Appendices

- 8.1 Appendix A - KCC Asset Disposal Policy Questions 17.09
- 8.2 Exempt Appendix B – Completed Disposals
- 8.3 Appendix C Decision (No. 22.00053) - Freehold Disposal Policy

9. Contact Details

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