

Selby District Council Asset Transfer Policy 2014

(A Policy for the Transfer of Assets to Selby & District Housing Trust)

1 Introduction and Purpose

- 1.1 To enable transfers of land and property to Selby & District Housing Trust (the Housing Trust) in order to make best use of the Council's assets.
- 1.2 The policy will enable the transfer of Selby District Council (SDC) owned buildings, land, void housing or any other assets, subject to individual business cases and the relevant approvals.

2 Policy Context

- 2.1 There are a number of existing plans and strategies which provide the framework for asset transfer within the context of Selby District Council's strategic aims.
- 2.2 **Selby District Council's Corporate Plan 2011-2015**
The Council is committed to achieving five big things for the district:
 - We want to be a stronger council, fighting for our communities and getting everyone working together.
 - We want to change the perception people have of Selby district as a place to live, work, bring up their families and spend their time and their money.
 - We will strive to ensure that people are living well by providing better opportunities for learning, training, jobs, housing and leisure.
 - We want to be confident in our ability to tackle the tough stuff that holds back our potential and that of our communities, and
 - We want to be switched on to what's happening around us, knowing what's important to the people we serve and being fit to deliver it.
- 2.3 Building on these five targets, we launched our **Programme for Growth** in 2012, which focusses on the key issues of new jobs, housing, local infrastructure, retail and leisure.
- 2.4 As part of this programme, an independent Housing Trust will be set up to deliver new and refurbished affordable homes in the district, to meet need, support local construction and increase opportunities for jobs and wealth creation.
- 2.5 Our **Asset Management Strategy** 2010-15 provides a plan whereby the Council can balance the investment required with the resources available to achieve the objectives of the Corporate Plan and other Council strategies.
- 2.6 It requires the Council's assets to be managed in the most effective, efficient and economical manner, with the objective to ensure that every opportunity is taken to fully utilise the benefits of assets.
- 2.7 The **Housing Revenue Account (HRA) Business Plan** 2012-17 sets out how the Council, as the major landlord in Selby District, plans to manage its stock.

- 2.8 In addition to investing £15m million in our 3,150 homes over the next 5 years, it sets out our commitment to consideration of the wider use of our land and property holdings in the context of the abolition of the old Housing Subsidy System in favour of self-financing.
- 2.9 This will include looking at the opportunities presented either by developing new affordable housing ourselves within the HRA, or by working with the new Housing Trust to enable them to develop affordable homes.
- 2.10 Our **Empty Homes Strategy** 2013-16 identifies the scale of empty homes in Selby district, and explores the approaches and resources required to bring them back into use.
- 2.11 As part of this work, we will review best use of void Council homes and properties, as well as working with the owners of other public and privately owned stock.
- 2.12 An element of funding for the development of affordable homes, either new build or refurbished, will be made available through our emerging planning policies; see below.
- 2.13 The **Core Strategy** was adopted in 2013, Policy SP9 (formerly CP5) requires all new housing developments to contribute in some way towards meeting housing need, wherever the viability of the development allows. For schemes providing less than 10 dwellings, a commuted sum is required with a target contribution equivalent of up to 10% affordable units.
- 2.14 For schemes providing 10 or more dwellings, in certain circumstances, a commuted sum may be accepted as all or part of the affordable housing contribution (detail is set out in the AHSPD, Appendix 1).
- 2.15 An **Affordable Housing Supplementary Planning Document (AHSPD)** 2013, is being developed to deliver the Core Strategy, which includes the range of approaches, standards and mechanisms required to deliver affordable housing which meets local needs
- 2.16 Contributions received by way of commuted sums will be held in a fund and used to meet the provision of affordable housing in the District in accordance with the S106 requirements for each sum.
- 2.17 The **Housing Development Strategy** 2013 sets out Selby District Council's plans to contribute to the development of additional affordable housing in the district, concentrating on the contribution the Council itself can make.
- 2.18 It outlines two mechanisms for the Council to increase its affordable housing stock; initially concentrating on the opportunities provided by using Council owned land.
- 2.19 Building on these plans and strategies, this Asset Transfer Policy will provide the framework for consideration of when transfer to the Housing Trust would be beneficial to the Council's vision and objectives.

3 Strategic Consideration of Asset Disposal/Transfer

3.1 The Asset Management Strategy (extracts in italics) sets out that:

To manage the assets of the Council effectively, economically and efficiently in a manner which supports the delivery of the Council's Corporate Plan, Access Selby will pursue the following objectives:

- *To ensure the assets are fit for purpose and maintained to the required standard;*
- *To utilise assets in a sustainable way to support the Council's strategic policies;*
- *To work with partners and community groups to maximise the use of assets for the benefit of the local community;*

3.2 *All assets will be periodically evaluated through an **Asset Value Survey** to consider their:*

- *Condition*
- *Suitability – or fitness for purpose*
- *Sufficiency –reflecting both demand for and sustainability of an asset*
- *Net Costs – of running the asset*
- *Accessibility –Firstly linked to the Disability Discrimination Act and the extent to which the asset is accessible to service users and people with disabilities, and secondly concerned with accessibility more generally*
- *Value*

3.3 The asset is re-valued every 5 years with a desktop revaluation every year. Further detail is provided in the Asset Management Strategy.

3.4 In addition to this periodic consideration, assets may be reviewed at other stages, such as to enable a scheme or project to progress, or when HRA housing stock comes void.

3.5 Following review, the strategy may recommend any of the following actions:

- *Re-evaluation of rental value; or*
- *Incentives such as rent free periods, bespoke lease terms outside of the standard lease agreement (such as non-Full Repairing and Insuring leases), short term lets; or*
- *Professional assistance (such as planning advice, legal advice etc); or*
- *Waiving of fees; or*
- *Decorating, repairs and/or alterations*
- *Disposal*

3.6 *Where monitoring or review demonstrates that retention of assets is no longer in the public's interest, for example:*

- *where the costs of maintaining the asset are beyond its market value; or*
- *where the income from the asset is less than could be achieved through other means (such as bank interest on the capital achieved through sale); or*
- *where the sale of the asset would enable alternative assets to be acquired or provide the opportunity for an acquisition*
- *where the asset has ceased to be of use to the Council or Access Selby, but still has a useful life; or*
- *for other justified reason*

consideration may be given to the disposal of the asset.

3.7 *Disposal means to sell either*

- *the Council's freehold interest in the land, property or void home or*
- *to grant a leasehold interest to a buyer with the Council retaining its freehold interest in the land, property or void home.*

3.8 *Disposals of assets will be made in accordance with:*

- *statutory provisions;*
- *Corporate objectives;*
- *the policies and procedures recorded in the Council's Constitution and this policy document;*
- *the proper council authority having been obtained*
- *external consents obtained*

Transfers to the Trust would be by means of private sale.

3.9 The asset may be transferred by way of sale or gift to the Trust at less than market value, subject to business case which should include reference to state aid. Where assets are disposed of for less than the best price the Council can achieve, it will only do so in accordance with the guidance set out in Circular 06/03 Local Government Act 1972: General Disposal Consent (England) 2003.

3.10 Where a disposal forms part of a mixed transaction involving the procurement of public "works", "supply" or "services the Council must consider whether the disposal amounts to procurement rather than a simple land transaction in which case the Council's Contract Procedure Rules and EU Procurement Regulations may apply. Legal advice must be sought from the Council's Solicitor.

3.11 Conditions may be applied to a sale (the section in italics is from the Asset Management Strategy):

As part of a business case the Council may impose conditions, covenants, buy-back clauses, overage clauses and any other terms or conditions upon any asset transfer as it considers appropriate. Such actions would be placed in the interest of the community, either to ensure best value, or in the interests of public safety/security. Each transfer will be considered on its own merits and any conditions would be agreed as part of the sale prior to conclusion and with the consent of the Secretary of State.

4 **Options**

4.1 The Council works in partnership with Registered Providers in the district to enable the development of affordable homes to meet identified housing need.

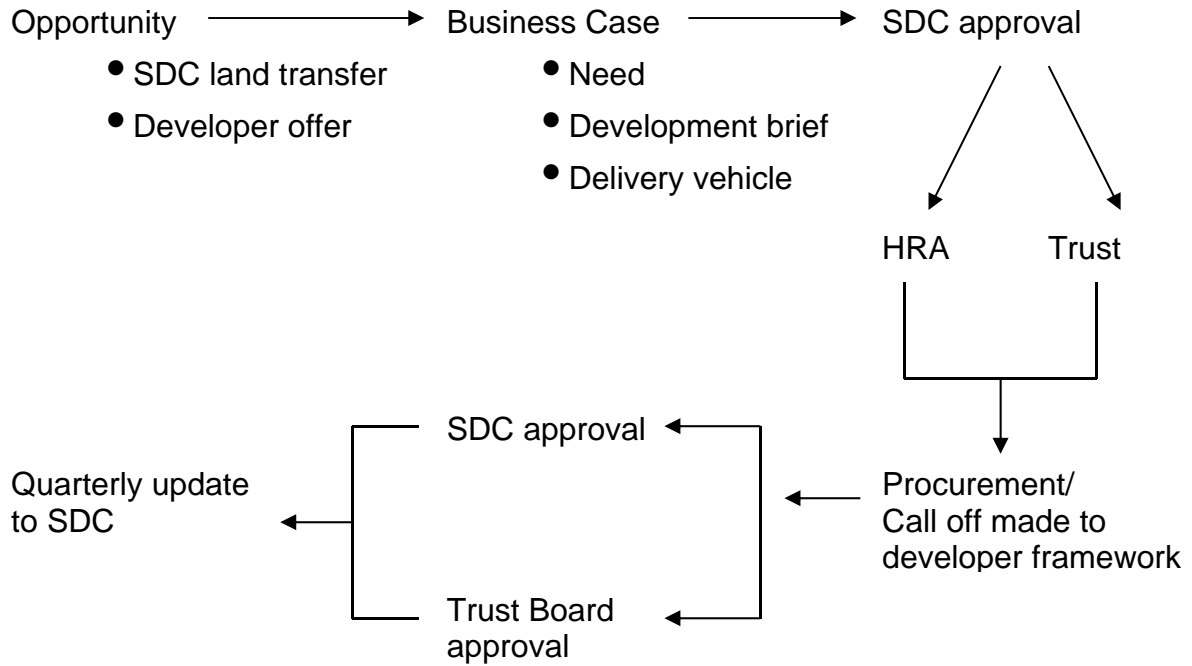
4.2 In addition, there are two mechanisms available to the Council to increase affordable housing stock; properties could be

1. developed and financed through the HRA, or
2. developed through a Housing Delivery Vehicle, Selby Housing Trust, established to develop affordable homes in Selby District.

4.3 The diagram below shows the process by which these development mechanisms would be considered. Once a potential opportunity has been

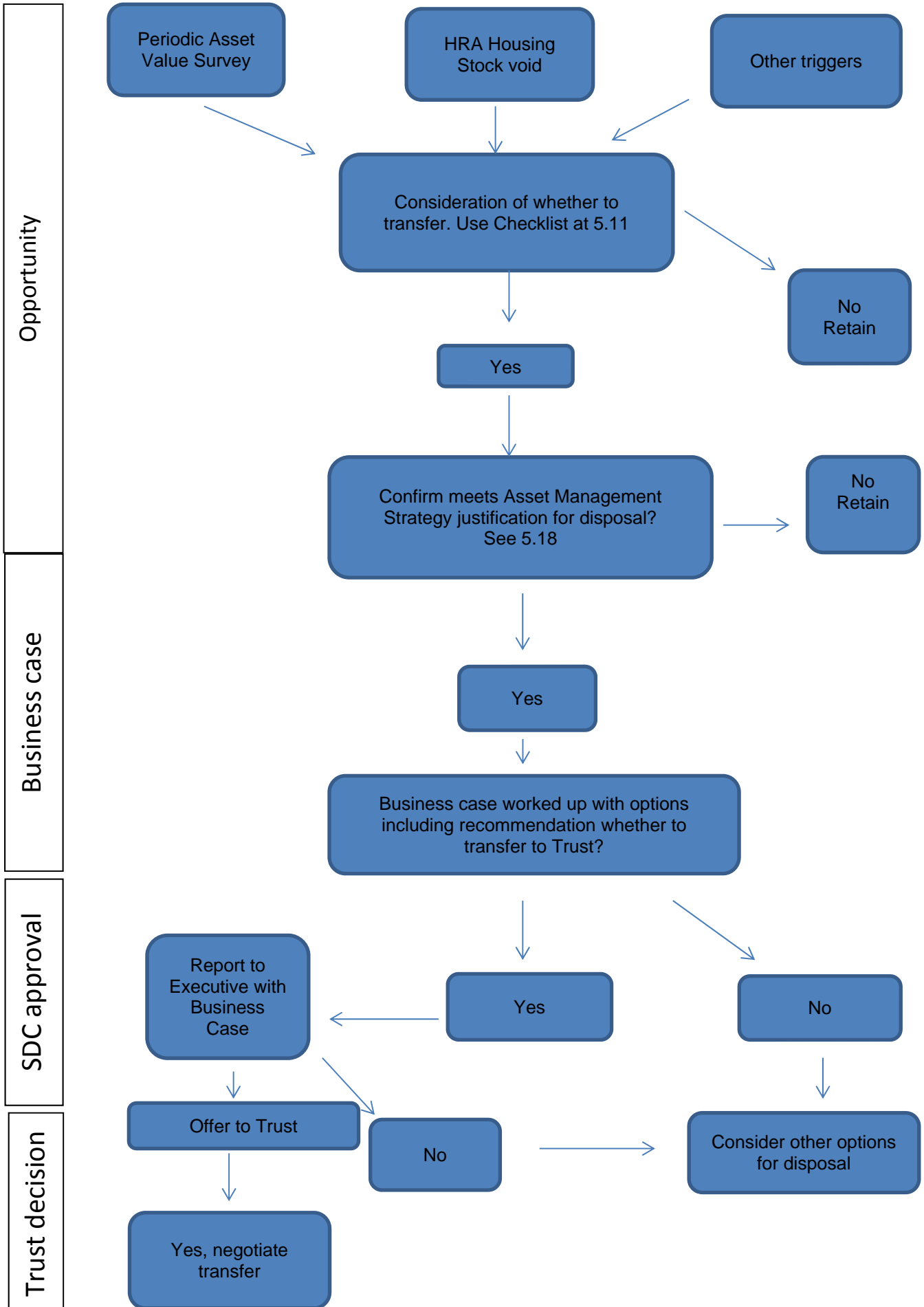
identified, the business case will dictate the best way forward, and establish whether or not transfer to the Trust is appropriate.

Development Mechanisms



5 Disposal/transfer to the Trust - Issues to consider

5.1 Set out in the previous section, taken from the Asset Management Strategy, are the processes by which an asset may be selected for disposal or transfer; either as part of a periodic review, or as a result of a particular trigger. Building on the diagram above, the flowchart below sets out the process.



- 5.3 Criteria must be identified to enable clarification of the reason for the Council initially to consider the asset for disposal. With reference to the Asset Management Strategy, it is likely that the triggers would be:

Periodic Asset Value Survey

- 5.4 *All assets are periodically evaluated (as set out in the Strategic Asset Management Plan) to consider their:*

- *Condition – This considers the physical state of the asset and evaluates the repairs required to keep the asset in continued use. It may be more cost effective to replace an asset outright than to continually repair it.*
- *Suitability – This measure effectively reflects fitness for purpose of an asset and encompasses views of those involved in front line service delivery, and taking into account the needs of service users. It goes beyond condition and is concerned with how well or otherwise the asset is suited to its current purpose.*
- *Sufficiency – This measure reflects both demand for and sustainability of an asset. Sufficiency is concerned with asset use now and in future. It is a crucially important indicator as it helps to identify both under-utilised assets for possible disposal or reconfiguration, and situations where there is a developing risk of over-utilising an asset and the need for additional/alternative assets to meet demand.*
- *Costs – The costs of running the asset must be compared with the revenue it generates.*
- *Accessibility – This covers two distinct areas. The first is linked to the Disability Discrimination Act and the extent to which the asset is accessible to service users and people with disabilities. The second is concerned with accessibility more generally e.g. specialist equipment that can only be utilised by suitably trained staff.*
- *Value – A list of financial values of assets acts as a reliable inventory check and provides accurate, appropriate valuation information to assist in decision making.*

HRA Void Housing Stock

- 5.5 When a home comes void, consideration could be given to whether its continued use should sit with the Council, or whether wider strategic aims might be met by transferring it to the Trust, for instance where major works are required, in order to facilitate wider development, or where the stock of affordable housing needs to be preserved eg where it sits in a rural location where the development of additional affordable housing would be unlikely. For practical purposes, it may be necessary to set out some parameters for this – see 5.8.

Other triggers

- 5.6 Over time it may be established that some assets are low demand, and a reassessment of their use and potential may be appropriate. Ongoing project work or review such as a Stock Condition Survey may flag up the need for a wider consideration of an asset, its use and ownership

General

- 5.7 Initially, the concentration will be on the use of council owned land, and whether it provides opportunities for the development of new affordable housing through the Trust.

- 5.8 For void housing stock, it may be practical to identify certain types of hard to let or low demand units (for example by unit size, or by specified locations in the district) where transfer might be considered, in order to avoid consideration of each individual property coming void. This would reduce delays in re letting (existing HRA stock or as new lets through the Housing Trust, dependent on the outcome) to potential residents in need of housing, and minimise the loss of income.
- 5.9 For other assets this may not be so critical, and review would generally be led by the periodic asset value survey.
- 5.10 An evaluation sheet should be used to ensure that the requirements of the Asset Management Strategy are met. If at any point it becomes apparent that there is no opportunity for additional affordable housing to be developed through the Trust, the process will cease.
- 5.11 The checklist should include:

Evaluation	Comments	Existing Housing stock
Consideration of current use and possible alternative use, including any planning constraints, flood risk, knowledge of the immediate area		n/a
Does the alternative use provide an opportunity for the Trust to provide affordable housing?		n/a
Cost and best value in proceeding		
Financial issues including potential loss to the General Fund or HRA and repayment of the debt		
Potential to enable other Trust schemes to progress eg adjacent to other Trust landholdings, potential access to sites, ransom strips		
Whether it would be a freehold or leasehold transfer and the advantages/disadvantages of each		
Other Legal issues		
Wider benefit to the community		
Other considerations		

- 5.12 With the benefit of this evidence a Business Case can be made for the transfer/disposal of the asset, and consideration of whether the asset would be suitable for transfer to the Trust. Opportunities should enable the development of affordable housing either directly through the disposal of a void property or the provision of land to build affordable housing, or indirectly through the transfer of land or property which would enable an affordable scheme to progress.
- 5.13 Where Council owned land is identified for affordable housing development, the type of scheme developed will be led by identified housing need, including evidence from the latest Strategic Market Housing Assessment and the Council's Housing Register. More information can be found in the Councils Affordable Housing Supplementary Planning Document.
- 5.14 Where a decision is made to transfer an asset to the Trust, the valuation will include consideration of whether the transfer should be freehold or leasehold, and include the cost/benefit of each. Reference should be made to Circular 06/03.
- 5.15 As the owner of the asset, the Council will have the opportunity of setting out its requirements of the proposed development in terms of
- the type and size of housing to be developed
 - the development timescale
 - design/quality assurance
 - covenants on land where appropriate
 - overage agreements where applicable
 - option/pre-emption agreements
 - loan agreements where applicable
- 5.16 However, it will not be possible to use a buy-back clause without express approval from the Secretary of State.
- 5.17 Where assets are transferred to the Housing Trust it may be necessary for affordable schemes to be cross subsidised by market housing, and consideration of this option would be considered in the usual way through the planning process, and set out in the business case.
- 5.18 As part of the Business case, *where monitoring or review demonstrates that retention of assets is no longer in the public's interest, for example:*
- *where the cost of maintaining the asset are beyond its market value; or*
 - *where the income from the asset is less than could be achieved through other means (such as bank interest on the capital achieved through sale); or*
 - *where the sale of the asset would enable alternative assets to be acquired or provide the opportunity for acquisition*
 - *where the asset has ceased to be of use to the Council or Access Selby, but still has a useful life; or*
 - *for other justified reason*

this will need to be clearly evidenced.

6 Process

- 6.1 This document has outlined a framework for the above process to ensure full consideration by officers and Members, and fit with the processes laid out in the Asset Management Strategy

Internal approvals.

- 6.2 Most transfers will require Executive approval as a key decision.
- 6.3 The report to Executive will need to set out
1. the reason that the disposal is in the public interest, and
 2. a breakdown of the costs of disposal and how these will be funded
 3. whether the asset will be replaced and how it will be funded

Officer delegation

- 6.4 Where an asset is valued at less than £15k, directors have delegated powers in consultation with S151 Officer/Solicitor to the Council

External approvals

- 6.5 Various central government consents may be needed according to the type of land/asset.

7 Potential Risks

- 7.1 Risks which the Council will need to take into consideration are;
- any longer term opportunity which might be provided by the asset, including possible ransom strip or strategic transfers
 - the financial impact on the HRA of the Council reducing its housing assets, or on the General Fund
 - the impact on the practical management arrangements for its housing stock
 - any economies of scale relating to housing management
 - ensuring that opportunity is taken to protect any long term interest in the asset in the terms of the transfer/disposal
 - emerging projects considered by different teams

Each case will need to be fully evaluated to ensure risk is minimised.

- 7.2 In terms of Council housing stock, the new Right to Transfer (Autumn 2013) gives tenants the right to the transfer of their homes to a Housing Association (Registered Provider) and to request new homes be built. If this were to happen, the Council would own fewer individual homes which could be considered for transfer to the Trust.

8 Potential Benefits

- 8.1
- The policy will enable additional affordable housing to be developed to meet housing need in the district
 - It will help the Council sustain the HRA through external property management
 - It will provide employment opportunities in the district

ⁱ Local Government Act 1972 general disposal consent (England) 2003 disposal of land for less than the best consideration that can reasonably be obtained

ⁱ General Consents 2003 and 2013; Housing and Regeneration Act 2008, Local Government Act 1988