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# Crawley Borough Council

## Report to Executive

12 May 2004

### Property Strategy

#### 1. Executive Summary

- 1.1 The Council is the owner of a large and diverse property portfolio that is corporately owned for the benefit of the organisation and stakeholders and yet there is no formalised strategy for the reasons for holding property nor is there a consistent approach to its management.
- 1.2 The absence of a Property Strategy and effective management of the portfolio has led to a number of problems with the Council's property management processes including the following: -
- (i) Some properties are under-performing poorly in financial terms
  - (ii) Some properties are under occupied
  - (iii) Some properties may be unsuitable for their current use
  - (iv) Service users have no incentive to declare properties surplus
  - (v) There may be cases where service areas occupy properties for historic reasons rather than service need
  - (vi) There is insufficient corporate understanding of property as a corporate resource
  - (vii) There is a lack of formal acquisition/disposal strategies (or targets)
  - (viii) There is insufficient support to Members to ensure informed decision making
  - (ix) Property data information, although much improved, remains incomplete

- (x) Increasing budgetary pressures mean that it is essential to maximise the best use of maintenance budgets across the Council
- 1.3. The purpose of this report is to consider the attached draft strategy and phased proposals for the development of detailed policies to support this strategy.
- 1.4. In order to ensure that the Property Strategy can assist (either directly or indirectly) in meeting the aims and objectives of the Corporate Plan and Community Strategy, it is essential that the strategy balances the various competing priorities e.g. community need (operational properties/affordable housing) against financial requirements (capital and revenue).
- 1.5. Currently each neighbourhood centre has a range of facilities and although the continuance of this principle is considered to be important, the changing aspirations and increased mobility of residents, the pressure to provide additional housing, the expansion and increased accessibility of the Town Centre and increasing financial pressures on the Council, means that there is no longer a requirement to provide all of these elements in every neighbourhood.
- 1.6. Through service reviews, condition surveys, suitability surveys, a review of space standards and the exploitation of poorly performing properties, the Property Strategy will assist in the delivery of improved utilisation of its property and facilitate the identification of surplus property. These measures will assist in delivering the various competing aims of the Corporate Plan and Community Strategy.

## **2. Recommendations**

2.1 It is recommended that the Executive:

- (A) Approves this document as the Council's Property Strategy and approves the supporting list of Operational, Non Operational and Surplus Property Actions as set out in sections 12.1 – 12.3 of the draft.
- (B) Approves the programme for detailed policies to be considered at future meetings as set out in 12.4.
- (C) Approves the continuation of the neighbourhood concept forming an essential element of the overall ethos of the town's structure, albeit that not every neighbourhood centre has to provide all of those elements traditionally associated with Crawley's neighbourhood principles.
- (D) Approves the policies and procedures set out in 19 of Appendix D.

JONATHAN MACDONALD  
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# DRAFT PROPERTY STRATEGY

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## **1. WHY DOES CRAWLEY BOROUGH COUNCIL NEED A PROPERTY STRATEGY?**

1.1 Crawley Borough Council has set itself a Mission of being 'widely regarded as a first rate local authority by December 2006'. In order to achieve this and to provide finance (both revenue and capital) through its non-operational properties, the Council is the owner of a substantial property portfolio. This provides it with the facilities that will enable it to meet its four corporate aims of:

- delivering high quality services
- achieving exemplary customer satisfaction
- being financially efficient and well managed
- having positive, motivated and empowered staff

Yet the Council has no agreed strategy about its reasons for holding property nor does it have a consistent approach to its management.

1.2 Like all bodies with significant property holdings, the Council has recognised the need to implement a strategy that sets out the principles that support a corporate approach to property management. This is a critical factor in ensuring the successful delivery of the Community Strategy and the Corporate Plan. It is also critical in ensuring that the Council is able to deliver current and future services to meet community expectations as well as meetings its environmental and health and safety obligations.

1.3 This is the Council's first corporate Property Strategy and will seek to establish a framework of principles for the overall management of the organisation's operational and non-operational estate.

1.4 Land and property held within the Council Housing Service i.e. houses and flats, hostels, garages, parking and amenity areas and housing playgrounds and open space are excluded from this strategy.

1.5 An effective Property Strategy will:

- raise the awareness of property as an asset
- set out a clear decision making strategy for the ownership, use and management of the Council's Corporate Property Portfolio in the future
- establish a framework for assessing future property requirements
- set standards for the design, care and use of buildings
- monitor portfolio compliance with statutory obligations such as Health and Safety
- ensure continuous improvement in the performance of the property portfolio

1.6 The Council's Asset Management Plan, which received the highest grading of "Good" in 2001 and 2002, released the authority from forwarding a full plan to the Government Office for the South East in 2003 and future years. However, a formal Property Strategy is now needed to put the work identified in these plans into context and to act as a foundation and link to support other Council policies and objectives.

1.7 A comprehensive review of the property portfolio has never been carried out, there are fragmented property roles across the Authority and a lack of clarity about responsibilities and procedures. This has resulted in an uncoordinated approach to asset management.

1.8 The Asset Management Group will review the Property Strategy on an annual basis to ensure that property holdings reflect changes in the Council's aims, objectives and overall strategy. Subsequent changing property needs (and issues such as use, under occupation and major improvement and development schemes) will be identified and addressed via this process. This corporate approach is essential if the Council is to exploit and maximise the potential of its property in capital and revenue terms and enable provision of efficient front line services

## **2. HIGH LEVEL AIMS AND OBJECTIVES FOR CRAWLEY**

2.1 The high level Aims and Objectives of this Property Strategy are to:

- (i) Align the use of property resources to the Council's corporate aims.
- (ii) Ensure that service users current and future property requirements are met in such a way as to achieve the most economic and efficient use of all property assets thereby underpinning and assisting in the delivery of high quality services.

This will be achieved by:

- reviewing and clarifying the devolved roles and responsibilities for property management and development
  - reviewing property utilisation in relation to fitness for purpose and adaptability to meet future needs and investigating the potential for alternative usage
  - ensuring that the Council maintains and develops appropriate computerised information systems to allow analysis of quality property data, including running costs and condition, to inform investment decisions both through the Asset Management Group and the delivery of Directorate Service Plans and Divisional Work Programmes
- (iv) Provide service users with procedures to enable them to extend the use of the land and / or property or to release redundant land and property. Specific policies will be developed for the disposal of operational property where it is :-
- (a) surplus to service requirements
  - (b) unsuitable for its existing use
  - (c) not cost effective to retain as an asset

The release of value can then be used to assist overall service delivery.

- (v) Overall opportunities to increase joint and multi-agency working to match accommodation to service user and community need. This will be achieved by:
- promoting more innovative use of property, including shared use arrangements with partner organisations
- (vi) Develop clear procedures for the management, disposal and acquisition of property. This will be assisted by:
- maintaining a strategic input to the preparation of Local Development Frameworks to ensure provision is made for Council services, for alternative or more beneficial potential to be realised from surplus or under-performing properties and that developers contribute directly to the cost of providing Council services arising from their developments
- (vii) Develop sustainable and environmentally responsible property management by ensuring long-term needs are not compromised by short-term considerations (Full Life Costing). This will be assisted by:
- improving the quality of the built environment through sustainable and accessible development and the management of Health and Safety issues.
- (viii) Continue the policy that all Council property is corporately owned and as a generality, all capital receipts from the sale of land or property will be held within a central budget.
- This policy is driven by accounting regulations rather than the property strategy.
- (ix) Develop specific policies for all elements of the Council's property portfolio. These are set out in the Action Plan at 13.

### **3. SUMMARY OF ASSETS AS AT 31 MARCH 04**

3.1 Much of the property forming the neighbourhood centres was passed to the Council by the Commission for the New Towns in 1978 as part of the transfer of Council Housing Related Assets which have since been transferred to the General Fund. It should be noted that much of the land surrounding the neighbourhood centres, including the car parks, is highway land under the control of WSCC.

3.2 The original development and subsequent expansion of Crawley New Town has followed the principle of development of a series of sustainable residential neighbourhoods (currently 13) located around the Town Centre, with the industrial area to the north.

Each residential neighbourhood has a mixed community with a range of house sizes and tenure, local shops, public house, community centre, church, schools, playing fields and in some cases, small local employment service industry sites.

3.3 The Council is the owner of a substantial and diverse property portfolio and has 959 assets excluding housing stock entered in its Asset Register.

3.4 These assets are valued in accordance with the CIPFA Code of Practice and Accounts Regulations. As at 1 April 2002, the valuation of these assets, equated to £124,216,098. This figure is broken down in the table at APPENDIX A.

#### **3.5 Property Condition**

The Council's Operational and Non-Operational property portfolio is considered to be in a good state of repair being predominantly of post-war construction and having had the benefit of sufficient budgets for maintenance over the years. A background to Programmed and Reactive Maintenance for Non-Housing Property Assets is shown at APPENDIX B.

The ODPM definition of maintenance backlog is defined as "The cost to bring the building from its present state up to the state reasonably required by the authority to deliver the service or to meet statutory or contract obligations."

Within this definition, it is not considered that the Authority has any backlog of maintenance.

As part of the Property Performance Indicator process under the Asset Management Plan, the Head of Property Services and Procurement must return annual statistics to the GOSE.

The returns for July 2003 are shown at APPENDIX C.

### 3.6 Land and Property Classification

Land and property is used and deployed in many different ways to achieve the Council's objectives of:

- fulfilling its statutory duties and objectives
- assisting in fulfilling its social duties
- fulfilling its administrative functions
- supporting partnerships and voluntary groups
- investment / development purposes.

The portfolio, set out in APPENDIX A principally falls into two categories, namely operational and non-operational assets.

However, in order to break down the use of land and property into more discrete areas, further sub-division has taken place through the Assets Lists held on the Council's Estatesman Property Management System as follows: -

#### **Operational**

- (i) Operational Direct Service (i.e. where the Council uses and occupies property in order to provide direct services to the community)
  - outdoor sports facilities
  - allotments
  - parks, open spaces and playgrounds (excluding those within the Council Housing Service)
  - cemetery
  - operational depots
  - leisure centres
  - the Hawth Theatre
  - car parks
  - community buildings (community centres, pavilions, play service, adventure playgrounds)
  - public conveniences
- (ii) Operational (i.e. where the Council occupies property in order to house office and administration functions which support direct service provision).
  - Office and Admin (Town Hall)
- (iii) Operational Indirect Service (i.e. where the Council makes property available to other agencies in compliance with statutory or non statutory obligations)
  - Registrar
  - charitable organisations
  - voluntary organisations
  - youth groups
  - museum
  - water mill.

## **Non – Operational**

In addition to property held for operational purposes, the Council holds property for non-operational purposes, primarily for income generation, but sometimes for social reasons.

The non-operational estate has been divided into four main groupings, for the purposes of defining policies.

### (iv) Non-Operational - Commercial

- neighbourhood shops
- service industry sites
- starter units
- farms
- doctors and dentists surgeries
- veterinary practices
- land, non-specific

Ownership of this property enables the Council to not only receive an income, but also to seek to control the balance of land and property uses, in turn influencing the commercial vitality and viability of the Town. In addition, the rental income (£2.8 m 2003/04) assists in supporting the various services and facilities delivered by the Council.

### (v) Non-Operational – Sports and Social Clubs.

Historically the Council has adopted a “concessionary rent policy” towards sports and social clubs, because of the social element of the services they provide.

### (vi) Non-Operational - Development Properties

e.g. Haslett Avenue Car Park, Units 3-7 Enterprise Court are providing redevelopment opportunities

The Council owns various properties and more significantly, vacant sites, that can be used for new development. In this way, the Council’s ownership can help to plan and influence the way in which areas are developed or improved. Many of these sites have not yet been identified and matched with any particular development or regeneration schemes, but the Council is strategically placed to influence future land use.

### (vii) Operational/Non Operational Surplus/Vacant Property.

Occasionally the Council will declare land or property assets surplus to requirements. These may be surplus to operational requirements or may have become surplus to the non- operational estate.

## 4 FINANCIAL CONSIDERATIONS

- 4.1 An effective operational estate can provide value for money in supporting high quality service delivery and contributing towards the Council's other aims of exemplary customer satisfaction and positive, motivated and empowered staff. The non-operational portfolio provides the Council with a substantial annual income (£2.8m for 2003/04), while surplus land and property provide a variable, but significant capital receipt, both of which make a significant contribution towards our aim of being financially efficient and well managed.
- 4.2 As a result of the increasing financial pressures faced by the Council, it is imperative that the potential of property assets are fully exploited to ensure that maximum benefit is derived.
- 4.3 In consequence, the Council's policies should seek to maximise rental income from its leased properties and obtain full market value from the sale of all land and property, except where other overriding needs are identified.
- 4.4 Those overriding needs are likely to relate to meeting the objectives set out in the Council's Corporate Plan, such as delivering affordable housing. A balance will need to be struck between generating capital receipts from land and property disposals and selling land below market value, both of which involve using the Council's resources to achieve the objectives within the Corporate Plan.
- 4.5 The bulk of receipts from the sale of land and houses held as part of the council housing account are payable to central government. Receipts from the sale of other land (General Fund land) are retained in full by the Council. In view of this, the general policy is that surplus General Fund land will be sold at market value (in order to generate capital for other Council projects) while surplus council housing land will be earmarked for the delivery of affordable housing with consideration of a sale at below market value.
- 4.6 In an attempt to maximise the value of the Council's landholdings, where a site is allocated in the adopted Local Plan/Local Development Framework for more than one planning use, the Council should pursue release or sale of the land for the use likely to generate the highest value, unless there are corporate reasons for incurring opportunity costs associated with the less valuable use.
- 4.7 At present, there is an informal target within the Council's financial projections to achieve £1m per annum from non housing capital receipts, but in order to formalise this arrangement and provide a programme for achieving this target, further work is required to identify suitable sites for sale.
- 4.8 In addition, in view of the comparatively low financial returns currently available from the money markets or Gilts and Bonds, consideration will be given to the investment of surplus funds in the property market where yields are at present significantly more attractive and historically capital values have shown appreciable increases.

## 5 OPERATIONAL PROPERTIES

- 5.1 Due to the extensive range of diverse functions performed by the Council's land and property portfolio in delivering high quality services and securing capital receipts and rental income to support these services, the various elements of the Council's corporate property holdings must be subject to distinct, yet flexible, sets of policies.

They must seek to encourage the most efficient use of property (which may result in rationalisation), whilst meeting the ultimate objective of contributing to overall continuous service improvement.

Some of these policies and potential policies in relation to the operational estate have already been informally adopted while others will evolve over the next year and will be delivered by joint working between Property Services and Procurement and officers from individual Service Departments.

- 5.2 At this stage, it is anticipated that the framework of policies will include the following issues: -

### Operational Property - Aims

- to improve service delivery through innovative, economic, sustainable and energy efficient use of property
- to hold only sufficient property to meet corporate service objectives and declare any appropriate property surplus to requirements as soon as possible in order to minimise service costs
- to avoid occupation of additional property except in circumstances where the existing portfolio is unable to accommodate need or it is as part of a rationalisation exercise
- to occupy freehold property wherever possible
- in the event of occupation of leasehold property, to lease the property for a period equating to the duration of the service being provided from the accommodation
- to minimise outgoings on operational property through prudent estate management
- to ensure efficient use of space in operational buildings by reducing the amount of vacant space
- to seek to maintain and improve the operational fitness and optimise the value of property through adequate maintenance

- to provide customers, users and staff with appropriate standards of accommodation by making buildings attractive, safe and accessible

## **6. NON – OPERATIONAL PROPERTIES**

- 6.1 These properties contribute to the Council's corporate objectives through providing a regular and secure revenue stream, but also by achieving capital growth, supporting the local economy and meeting the social needs of the local community.

### Non-Operational Property – Aims

- To optimise the revenue to the Council while having regard to its wider objectives
- To have a presumption, other than in special circumstances, against disposal of properties that are producing an appropriate rental return

## **7. SURPLUS PROPERTY**

- 7.1 This comprises property not being used to meet service needs, either directly or indirectly and formerly declared surplus to requirements or property identified as surplus to the non-operational estate.
- 7.2 Individual Directorates make use of land or a building to carry out their service objectives, but once that property is no longer needed for provision of that service, it will be returned to the Asset Management Group for re-allocation or disposal.
- 7.3 Although the Council will seek to minimise vacant and inefficient property within the portfolio, disposal will not be considered if;
- A property is required for operational purposes or
  - It is strategic to economic regeneration or
  - It provides significant community benefit
  - It provides significant net rental income
- 7.4 Once a property is no longer needed for one purpose, all the potential competing uses for it are evaluated and a corporate decision made about its future by the Asset Management Group. If the property remains surplus to requirements, it will be disposed of at the earliest opportunity with a view to maximising the financial return, subject to any overriding policy considerations. Although property will be sold for the highest financial consideration, wherever possible, a revenue income will be secured in preference to a capital receipt.

7.5 At present the Council has an informal target of generating capital receipts of £1 million per annum from the disposal of land and property.

7.6 Through the use of “the Corporate Pot”, the Council supports the principle of developing or disposing of assets in one neighbourhood for the financial benefit of enhancing services in another neighbourhood.

## **8. THIRD PARTY LAND AND PROPERTY**

8.1 Where possible and feasible the Council will be encouraged to share the use of land and property in partnership with other public and voluntary organisations.

8.2 Moreover, where service users require additional accommodation, they will seek to share this with third parties thereby ensuring maximum use of property and minimum running costs. This will also increase the range of properties available for use by them.

## **9 ACQUISITIONS**

9.1 The Council will identify the need for property for operational purposes and identify opportunities which either represent good value to the Council or which due to their particular characteristics are worthy of purchase to assist with service delivery or strategic, policy or regenerative objectives.

9.2 No additional property will be acquired for operational purposes unless it can be demonstrated that the service cannot be properly delivered from existing accommodation in the Council’s ownership.

9.3 All potential acquisitions must be identified through work programmes and Directorates’ Asset Management Plans. The requirement will then be referred to the Corporate Property Officer by the Directorate representative on the Group for consideration by the Asset Management Group. Funding for the acquisition and future revenue running costs must first have been identified.

9.4 Property Services and Procurement will negotiate all acquisitions on behalf of service users.

9.5 The Council will not acquire land through S.106 Agreements for which there is no practical use or that does not deliver a clear community benefit.

## **10. HOUSING DEVELOPMENT LAND**

10.1 As a result of significant changes in Local Government Financial Regulations and the indirect effects of the Future of Air Transport White Paper on Gatwick, there are currently a number of uncertainties relating to how the Council can most effectively deal with this issue. Once these uncertainties have been removed, a formal policy will be brought to the Executive for approval.

- 10.2 However, already the new financial regulations are dictating that land held by the Council Housing Service (and where the Council would have to repay 75% of the capital receipt to central Government) would be best utilised to assist in the provision of affordable housing. Meanwhile land held in the General Fund, where the Council can retain capital receipts, is likely to be more suitable for private development.

## 11 COMPULSORY PURCHASE

- 11.1 The Council will consider the use of Compulsory Purchase powers to assist with land assembly where a clear community benefit can be demonstrated.
- 11.2 Initially the Council or its development partners will always seek to acquire land or property for comprehensive development or redevelopment through negotiation. Where this is not possible, it will make use of compulsory purchase powers in the acquisition of property in the event that alternative means of acquisition is not achievable within acceptable timescales.

## 12. MEASUREMENT OF PERFORMANCE

How will improved performance be identified and measured?

- Service Directorate and customer feedback to establish client satisfaction with quality, suitability and cost of the property service
- Reviewing running costs against comparable properties and meeting performance targets
- Benchmarking with external comparators on areas such as:
  - property condition and maintenance backlog
  - costs of managing the portfolio
  - maintenance, energy and water costs
  - compliance with predicted costs and
  - programme for capital projects

## 13. ACTION PLANS

### 13.1 Operational - Action Plan

We will: -

- a. Endeavour to build an understanding throughout the Council of the strategic importance of property assets in supporting service delivery. The existence and increasing influence of the Asset Management Group has already started this process but in addition, the following actions will enhance the understanding of the role of property. **(ONGOING)**
- b. Seek to ensure that with the assistance of Property Services and Procurement, all service Directorates produce their own Asset Management Plans for every

property asset within their control to cover location, condition, sufficiency, suitability and running costs,(maintenance, rent, rates, insurance, energy, water consumption, cleaning, security) identifying future needs and forecasting possible future surplus assets. **(MARCH 2005)**

- c. Suitability surveys have been developed and will now be used as a toolkit by Service Directorates as an integral part of any service development process. This biennial assessment will cover how the property meets service needs for users, staff and the Council and ensure property is in an appropriate location, is accessible, remains suitable for its service use and that demand exists to justify the costs of its retention.

The template to assist this process has been produced so that an objective assessment on similar terms can be carried out by various service areas on different properties while enabling comparison of contribution/suitability to service by each asset.

The Corporate Property Officer will provide the necessary support, information and training in order to maximise the benefits from this process. **(SEPTEMBER 2004)**

- d. Agreed standards will be established with all service providers for space monitoring and space standards and agree appropriate targets for improved economic performance of assets. **(MARCH 2005)**
- e. Establish standards for building condition, energy and water consumption, quality of build and monitor running costs to target potential savings.

This information will ultimately be accessible across all Directorates through the Estateman system.

When new premises or adaptations are planned, separate meters and other accurate arrangements to establish running costs, will be used, wherever possible.

For new construction, the Council will adopt criteria for sustainable construction by using materials and construction methods that realise optimum value by maximising building life and minimising environmental impact.

This will be achieved through the use of natural, renewable, sustainable or recyclable materials wherever possible, while retaining traditional building and detailing techniques where it is deemed appropriate for long term maintainability and adaptability.

All new buildings will not only continue to meet current Building Regulations requirements on energy conservation but will also be designed to conserve energy use, fuel and water consumption through increased insulation and ventilation, reduced energy consumption and the utilisation of solar benefits.**(MARCH 2005)**

- f. Ensure all services consider alternative methods of working including hot-desking, working from home, evening and weekend use, shared use and ICT to increase accessibility, maximise revenue and reduce overall costs.**(ONGOING)**

- g. Through Asset Management Plans, set and meet Continuous Performance Improvement Targets. This will ensure services are responsive to customer needs, challenge service agendas and regularly challenge the ownership/retention of property to check the validity of the reason for holding it, for comparison of performance and for consultation with stakeholders over requirements, location and accessibility. **(ONGOING)**
- h. Further review and develop an action plan for centralisation of Council accommodation E.G. Depot space, with the aim of accommodating staff in fewer, larger, better located buildings. **(SEPTEMBER 2004 AND ONGOING)**
- i. Work towards property delivering multiple services within neighbourhood centres, close to or including other public, community, health, religious and education facilities.

The future of Langley Green neighbourhood centre has already been the subject of debate and the areas surrounding Bewbush neighbourhood centre are now also under consideration.

In the future such reviews could be incorporated into a programme of work. **(ONGOING)**

- j. Ensure that the Council's property meets all current legislative requirements e.g. Health and Safety, Disabilities Discrimination Act, Fire Regulations, Asbestos Regulations etc.  
Consideration should be given to the appointment of a contractor to survey all Council premises to ensure that compliance with all relevant statutory and non-statutory legislation is being achieved. **(JUNE 2004).**
- k. Ensure development of specific policies with Service Directorates for the management of property let to voluntary /charitable organisations and sports and social clubs, including closer links between the allocation of premises and their grant aid funding and have these formally adopted as Council policy by the Executive. **(DECEMBER 2004).**
- l. Ensure that the Corporate Property data is regularly updated and through inputting of information from Service Asset Management Plan's suitability surveys, building condition surveys, energy and water consumption into the Estemman system, Corporate Property data will be regularly updated. This will be assisted by all services advising the Corporate Property Officer of any physical changes to the buildings or their uses. **(MARCH 2005).**
- m. Reports to the Executive on 17 December 2003 and Full Council on 14 January 2004, highlighted short, medium and long-term savings available to the Council through the investigation of alternative methods of service provision in respect of a wide range of services performed through the Community Services Directorate.

As a result of these investigations it is anticipated that surplus property will be identified. **(ONGOING)**

## 13.2 Non- Operational Property Action Plan

See Appendix D.

### 13.3 Surplus Property Action Plan

We will:

- a. Ensure that liability for the property being vacated will only cease when the property is occupied by another Directorate or is disposed of on the open market. Until this point, the managing Directorate will continue to be responsible for the budget.
- b. Ensure that a Directorate wishing to declare a property surplus to requirements will be required to obtain the approval of the Executive to vacate, together with approval for the Corporate Property Officer to investigate other operational uses. Availability of the accommodation will be notified to all other Directorates and discussed with their Asset Management Group representatives. If a new operational use is identified, the suitability and overall costs of the property for this use will be considered, along with the options of disposal of the freehold or leasehold interest, on the open market.
- c. Maintain a schedule on the Property Management System of all surplus/vacant properties.
- d. Endeavour to use the planning system to achieve optimum capital values from the sale of all surplus property.
- e. Ensure through the Asset Management process that any potentially surplus property is identified at the earliest possible opportunity and is marketed with the approval of the Asset Management Group. The Asset Management Sub-Group has already identified a large number of sites that may afford the opportunity for new development and the newly appointed Land Technician will ensure that, where possible, these are brought forward to realise development value or deliver affordable housing. Executive approval will be required for all disposals.
- f. Obtain best consideration in accordance with the requirements of S.123 of the Local Government Act 1972, by the most appropriate method of disposal, unless otherwise approved by the Executive.
- g. Ensure that all services are aware of and adhere to the surplus property review procedure.

### 13.4 Programme of Detailed Policies

In addition to the proposed Operational Property Action Plans set out above and the Non Operational Property Action Plan set out at Appendix D, a series of detailed policies will be developed in partnership with Service Directorates and will be reported to the Executive over the next 6 months in accordance with the following programme:

- Housing Development Land

**September 2004**

- Surplus Property and Disposal of Land	<b>September 2004</b>
- Sites for Ethnic Minority Religious Worship	<b>September 2004</b>
- Health and Safety	<b>December 2004</b>
- Facilities Management	<b>December 2004</b>
- Operational Estate	<b>December 2004</b>
- Non Operational voluntary/charitable Organisations, sports and social clubs	<b>December 2004</b>

#### **14. STAFFING RESOURCES**

It is not possible at this stage to identify in detail resource requirements to implement this strategy. Wherever possible, existing resources will be used to meet priority action points. However, where a resource need is identified which cannot be met, bids will be made for capital or revenue funding.

#### **15. CONCLUSIONS**

This Property Strategy is a framework document that sets out policies for some issues and indicates where further work is required to establish new policies.

It is in part, a strategic enabling document expected to require regular updating of the framework and cross-referencing with other documents (both existing and those that come forward in the future).

The link between the Property Strategy and asset management planning at corporate and service level is complex, but it directly links to the Council's and individual Directorates business objectives. A clear appreciation of the roles and interplay between these areas and the ability to take them forward cohesively is essential to the future strength of Crawley Borough Council in its service delivery.

# **ASSET REGISTER**

**This can be inspected at the offices of Property Services and Procurement or a copy can be sent to Members upon request through Democratic Services.**

## **APPENDIX B**

### **PROGRAMMED AND REACTIVE MAINTENANCE OF NON-HOUSING PROPERTY ASSETS**

#### **Programmed**

To ensure that suitable building repair standards are achieved, adequate budgetary provision must be secured. The Council delivers this through a forward funded five year programme of cyclical works of a planned maintenance and renewal nature, for buildings and associated plant and limited improvement works not exceeding the value of £10,000 (improvement works over £10,000 are funded from Capital provision).

Priority is given to works to keep property wind and weather tight and adaptations to comply with the Disability Discrimination Act, 1995, under which all public buildings must meet certain accessibility criteria by October 2005. The Council is on schedule to achieve this objective.

The programme for 2004-5 has been implemented following approval from the Leader of the Council (although the Head of Property Services and Procurement has delegated authority to amend the programme during the year to undertake urgent priority works arising). The programme for subsequent years is provisional and subject to annual reviews in November of the preceding year.

The cycle for delivery of the programme commences in September of each year with a series of meetings with the relevant managers of the operational property portfolio. This involves an initial review of the previous year's programme and decisions to prioritise/defer schemes.

The annual budget is set by the Council at the start of the cycle to reflect budget constraints prevalent at the time (this was set at £862,000 for the year 2003/04).

Prioritisation of schemes is at the recommendation of the Senior Surveyor in Property Services and Procurement in consultation with the Head of Finance and the Head of Property Services and Procurement.

In order to develop a framework for prioritisation and in anticipation of future budget constraints starting to impact on the programme, it is intended to introduce points scoring for schemes from 2004/05.

#### **Reactive**

This has been devolved to the operational buildings managers who are the budget holders.

Work has been undertaken this year to formalise procurement arrangements.

The recommendations from this project are:-

- Exporting of *Estateman* property asset management system to our clients to
- ensure that all information is recorded in a single location and improved cost monitoring can evolve
- Combining the reactive maintenance function with the Crawley Homes partnering contract from October 2004 (providing the contract is working effectively by this time), in order to benefit from Council-wide economies of scale.

## APPENDIX C

### PROPERTY CONDITION

The returns to GOSE for July 2003 were as follows:

#### OPERATIONAL PROPERTY

Category	A3	B2	B3	C2	D1	D2	TOTAL
No. of properties	7	2	68	4	0	0	80
Expressed as a %	8.0%	2.0%	85.0%	5.0%			

#### NON-OPERATIONAL PROPERTY WHERE CBC RESPONSIBLE FOR EXTERNALS ONLY

Category	A3	B2	B3	C2	D1	D2	TOTAL
No. of properties	4	3	22	2	0	1	32
Expressed as a %	12.4%	9.4%	68.8%	6.3%		3.1%	

#### Definition of condition categories and priority levels:-

**A:** Good – Performing as intended and operating efficiently.

**B:** Satisfactory – Performing as intended but showing minor deterioration.

**C:** Poor – Showing major defects and/or not operating as intended.

**D:** Bad – Life expired and/or serious risk of imminent failure.

**1:** Urgent works that will prevent immediate closure of premises and/or address an immediate high risk to the health and safety of the occupants and/or remedy a serious breach of legislation.

**2:** Essential work required within two years that will prevent serious deterioration of the fabric or services and/or address a medium risk to the health and safety of the occupants and/or remedy a minor breach of the legislation.

**3:** Desirable work required within 3 to 5 years that will prevent deterioration of the fabric or services and /or address a low risk to the health and safety of the occupants and/or a minor breach of the legislation.

## **APPENDIX D**

### **1. Non-Operational Property**

- 1.1 Non-operational property is that property owned by the Council not directly used in providing one of its services. Its contribution to the Council's operations is primarily for income generation therefore, but there are also often 'social' aspects to the role it undertakes within local communities.
- 1.2 These properties contribute to the Council's corporate objectives through providing a regular and secure revenue stream, but also by achieving capital growth, support the local economy and meet the social needs of the local community
- 1.3 The non-operational estate has been divided into three main groupings, for the purposes of defining policies.

### **2. Non operational - Commercial**

- 2.1 Neighbourhood shops, service industry sites, starter units, farms, doctors and dentists surgeries, and vets practices.
- 2.2 Ownership of this property enables the Council to not only receive an income, but also to seek to control the balance of land and property uses, in turn influencing the commercial vitality and viability of the Town. In addition, the rental income (£2.8m 2003/04) assists in supporting the various services and facilities delivered by the Council.

### **3. Non-operational – Voluntary/Charitable Organisations, Sports and Social Clubs**

- 3.1 The Council has a number of properties providing these facilities indirectly to residents. These are rented to non-profit making organisations.

### **4. Non Operational Development Properties/Surplus Land**

- 4.1 The Council owns diverse vacant sites with development potential. Some of these have a potential strategic role by enabling the Council to influence the form of future development within the town, whilst others have less significant potential. All such property has obvious potential to generate capital receipts for the Council.
- 4.2 Occasionally the Council will declare land or property assets surplus to requirements. These may be surplus to operational requirements or may have become surplus to the non-operational estate.

### **5. Background**

- 5.1 As a result of its historical development, Crawley Borough Council owns property interests in a comparatively wide range of assets for an authority of its size. Substantially, its portfolio is a product of its status as a local authority and Crawley's development as a New Town.

- 5.2 The non-operational property portfolio contains a broad range of properties fulfilling a number of different functions in meeting the authority's objectives. In certain cases, these objectives compete and the policy proposals seek to identify the issues and priorities in managing the estate.
- 5.3 The portfolio consists of 601 property interests currently producing an income of £2,800,000 per year. The capital value is currently identified within the Asset Register at £61,338,900 (Values as at 1 April 2002).
- 5.4 The non-operational portfolio therefore makes a significant contribution to the Council's income and supports the Council's broader service provision by assisting the funding of other General Fund activities. Notwithstanding this financial contribution, the Council has traditionally identified additional reasons for retaining its non-operational portfolio. These are not always entirely consistent with maximising the receipt of income.
- 5.5 Local Councils have been encouraged in recent years to view non-operational property assets in a more commercial way than may have been the case historically. The introduction of Asset Management Planning has increased the consideration given to the performance of property assets in financial terms. It has further provided opportunities to benchmark between property types and compare performance with similar local authorities and industry standards. It is intended that the Property Strategy will build upon this initial work and provide a framework to assess the benefits of holding particular property assets, their relative performance and provide management information to improve the services provided.
- 5.6 The other reasons for holding non-operational property may all be broadly identified as social reasons for providing property. This includes the local availability of essential services, providing an environment for private commercial activity (economic development function) local employment and assisting community safety through the provision of viable neighbourhood centres.
- 5.7 The Council is required under s123 of the Local Government Act 1972 to obtain the best possible consideration on disposal of property assets. 'Disposal' in this context includes the vast majority of the leases granted on the non-operational estate. In general, the generation of income to support other services is considered to be of greatest significance in the overall management of the portfolio. In addition, whilst the services are of benefit to the local community, the occupiers operate for specific commercial benefit. It is therefore arguable that specific support to commercial tenants of Council owned property would be unfair to those offering similar services from privately owned properties.
- 5.8 In light of these factors, it is proposed that income generation and the consequent support of other services is confirmed as the principle reason for retaining the non-operational estate. Within this position, the Council's broader community aims are to be considered and accommodated wherever practical.

5.9 The non-operational estate consists of a number of broad property types:

- Neighbourhood Parade Shops
- Industrial/Workshop/Employment Units
- Doctors, Dentists and Vets Surgeries
- Development Sites (including areas held on licence pending future proposals)
- Ground Leases of Public Houses
- Ground Leases of Residential Properties
- Non-operational, Voluntary/Charitable Organisations, Sports and Social Clubs
- Crawley Market
- Telecommunications installations
- Wayleaves & Easements
- Undeveloped small areas of land

## 6. Neighbourhood Parade Shops

6.1 The 143 neighbourhood shops are perhaps the most visible part of the Council's non-operational portfolio. Originally constructed in connection with the surrounding residential neighbourhoods to meet the day to day shopping requirements of local residents, the demands and expectations placed on the parades have changed significantly from the time of their original development.

6.2 The neighbourhood parades facilitate local availability of services and goods, provide employment, potentially reduce short car journeys and collectively with other services provide a community centre and identity for the individual neighbourhoods.

6.3 The Council has considered its policies towards neighbourhood shops on a number of previous occasions and, to date, confirmed its historic position. The current position is therefore:

### 6.4 Rent

The Council seeks open market rents for its commercial properties reflecting the location and size of the unit and the permitted use.

### 6.5 Use

All shops are subject to specific permitted uses within particular trades or groups of trades e.g. grocer, sale of musical instruments, Chinese takeaway. These user clauses allow the Council a significant level of control over the balance of trade within a parade but, as discussed below, do present certain difficulties both for the Council's management and the viability of individual businesses.

### 6.6 Trade Concessions

Discretionary personal rent reductions are available to individual traders in special circumstances. Applications for discretionary rents must be

accompanied by business plans and accounts to support the business case and identify how the viability of the business will be improved. The scheme is not designed simply to support failing businesses that may cease trading because of external factors outside the Council's control. The concessionary rents are personal, subject to confidentiality clauses, agreement of actual market rents, non-assignable and time limited.

The concessionary rent scheme is relatively little used, as traders who express an interest generally do not produce the supporting evidence required once this is explained.

#### 6.7 Key Trades

The Council operates a specific permitted use policy on its parades. Certain traditional uses (Butcher, Baker, Post Office, Greengrocer, Grocer, Chemist, and Newsagent) are considered key trades and efforts are made to retain these where possible.

6.8 By their very nature, the individual shops are occupied by various commercial operators providing goods and services to residents. In common with many freeholders, including other local authorities, the Council grants leases of individual shop units to these commercial operators on standard terms. In summary, these provide for the following:

Demise	Commercial and residential elements as appropriate
Rent	Open Market Rent for the accommodation occupied
Repairs	Tenant responsible for all repairs
Use	A specific use identifying a particular trade or range of goods
Insurance	Council to insure with tenant reimbursing costs of premium

6.9 In the main, these terms reflect those employed by the vast majority of landlords letting similar properties. However, there are some differences, most notably the restrictions on permitted use of the properties.

6.10 The parades currently face significantly different social and commercial pressures than existed when they were conceived and constructed. At the time of their original construction, social mobility was considerably less than is now the case and goods were purchased at traditional specialist retailers such as dedicated butchers, bakers, greengrocers, general grocers, post offices, newsagents, chemists, launderettes, hardware shops etc.

6.11 Changes in public expectations of retailers and broader social changes mean that demand is now generally for a different form of retailing. These changes are far from unique to the neighbourhood parades or town centre of Crawley. In the main general retailers meet basic shopping requirements, be that out-of-town superstores, supermarkets or convenience stores. As a result, traditional specialist retailers have come under increasing pressure leading to a reduction in numbers of viable outlets.

## 7. Current Issues

### 7.1 Repair

Full repairing leases are employed in the vast majority of the Council's non-operational property portfolio. These provide for all external and internal repairs to be undertaken by tenants. The Council and members of the public often express concern over the appearance and condition of individual properties. The Council undertakes regular periodic inspections of the portfolio and serves appropriate notices to identify required repairs on the tenants responsible. The Council's control of such issues is, however, somewhat limited by the provisions of the leases, statute and case law. Effectively, scope to enforce repairing obligations is limited and the available remedies are expensive.

The standard lease reserves the right for the Council to enter and inspect the premises and serve notice if repairs are required. If the tenant fails to undertake the repairs within prescribed time limits, the lease further allows for the Council to undertake repairs and recover costs. However, in practice, such action attracts a level of risk in that the tenants can seek relief and the costs may only be partly recoverable. Where costs prove to be irrecoverable or partly recoverable this action may 'educate' tenants to ignore repair notices in the expectation that the Council will do the works at a lower net cost to the tenant. There are also potential future problems where subsequent failures are, rightly or wrongly, attributed to the standard of the Council's work.

The Council can serve notice to forfeit a lease because of a tenant's failure to repair. Again, there are statutory measures which could allow the tenant relief from the action. The tenant may also undertake the works, thereby avoiding forfeiture, within a time that still results in considerable costs for the Council in progressing the legal action. This is not, therefore, an ideal remedy to apply in all cases.

### 7.2 Use

Most, shops benefit from planning permission to allow any trade within the relevant class of operation (generally either A1 – Retail or A3 – Hot food outlets). However in addition to this, the Council's leases contain specific permitted use clauses and these present a number of potential problems in the management of the estate and the operation of the individual businesses. Commercial pressures often lead tenants to consider additional product lines that are outside their permitted use. This results in a need for landlord's consent to sell the additional items.

Tenants often mistakenly believe that the restrictions contained in their lease gives them 'sole selling rights' in respect of those items. In reality the clauses are a restriction on what can be sold from those premises rather than a trading agreement or guaranteed monopoly. In general the various permitted uses within a parade are constructed to minimise competition in core areas of the various businesses.

However, this would not prevent the Council from granting similar or even identical consents to more than one retailer. Examples already exist

within the sale of general groceries at larger parades such as Tilgate and Langley Parades. Inevitably, there will be certain non-core items that are sold legitimately by a number of traders (matches, limited ranges of non-prescription drugs etc.).

Tenants trading as outlets of multiple retailers or well-known franchises occupy a number of shops. Particularly within the 'convenience store' sector, there may be a need or requirement to sell a range of goods that conflict with the permitted use under the lease. Whilst the Council can (and under current policies does) take action to enforce permitted uses, this may affect the long-term viability of such units. In many locations what was traditionally the 'grocery shop' has become the main food retailer on a parade as other specialist outlets have closed due to external competition. The convenience store (or closest equivalent on a particular parade) often provides the main shopping facility for those choosing to shop locally or unable to travel to less local large retailers.

Changes within the retail sector often present considerable management difficulties for the Council in addressing disputes between tenants. For example, is the modern convenience store with its wide range of goods directly analogous to the traditional grocer? If it is common practice for off licences to sell cigarettes or a newsagent to carry limited supplies of milk or non-prescription drugs, does the Council seek to enforce strict use clauses that prevent these where this may damage the viability of a local retailer?

The Council has received specific legal advice on the status of shops permitted to trade as 'grocers and provision merchants', a common permitted use on the various parades. This advice is that, in the main, this use equates to a convenience store selling 'essential items'. This definition would potentially allow such units to trade in items that compete directly with others on the parade with 'traditional trades' e.g. baker, butcher, newsagent. The existing permitted uses are contractual terms and the Council could not further restrict them without agreement of the tenants involved. As such agreement would, at least potentially, reduce trading potential it is unlikely that such agreement would be forthcoming without a financial concession from the Council. Given that the evolution of trading practices may already lead to conflicting uses on parades within the existing structure, increased flexibility for all is considered the fairest and most practical method of maintaining viable neighbourhood parades.

### 7.3 Rent

Notwithstanding any commercial considerations to obtain a reasonable return for its property assets, the Council is required by s123 of the Local Government Act 1973 to obtain best possible consideration for 'disposal' of property assets. The length of leases required by many tenants to provide adequate security for their businesses brings these within the definition of 'disposal'. In addition, it could be argued that to provide commercial advantage to those retailers fortunate enough to be tenants of the Council would be inequitable to those retailers providing similar local services from privately owned property.

In the past, neighbourhood parades have commanded comparatively low rents. However, economic changes mean that these have risen comparatively steeply within the recent past. Factors such as increased town centre rents (making parade shops more attractive to a wider range of retailers) and cultural changes leading to greater demand for comparatively profitable uses (such as hot food users) have all played a part in this trend.

Traditional uses of parade shops have therefore come under increasing pressure and found market rents increasingly difficult to meet. In many parades, the changes in occupancy reflect this. Whilst the loss of traditional trades can be seen as unfortunate in some ways, the Council is ultimately no better placed than the traders or other landlords to fight the economic realities creating this situation. In the light of changing customer tastes and practices, changes in the nature of goods and services provided at the parades is inevitable.

Whilst change is inevitable, there are various options in the tenure, management and letting of the parades that could assist their viability as centres of the community and these are discussed below. However, in itself, simply lowering rents will not address the wider issues facing the parades.

## **8. Options**

### **8.1 Tenure**

At present the Council owns the freehold of the majority of the neighbourhood parades, letting individual units to retailers in return for an income. Whilst this is a common model, it is not the only mechanism for providing local shopping.

Alternatives include:

#### **1. Selling the freeholds of parades to investors**

It could be argued that a private sector owner would have greater market focus and access to alternative additional funds to maintain and redevelop the neighbourhood parades.

A sale of the parades would provide capital receipts for the Council which could be invested in alternative ways (be that other property interests or not) to provide an income. In practice, local government financial provisions restrict the use of General Fund capital receipts to expenditure on capital projects. Whilst the Council remains debt free, CIPFA Capital Finance Regulations mean that all General Fund capital receipts are available for use in this way. If the Council were to cease to be debt free as defined in the Regulations, a proportion of General Fund capital receipts would have to be transferred to Central Government.

In addition, this option would effectively remove the vast majority of controls over the use of the parades with only the Council's statutory powers being available (planning, environmental health etc.)

Whilst it could be argued that acting as a commercial landlord is not a key function of a local authority, there are broader social issues addressed by the neighbourhood parades.

On financial, control and social grounds, therefore, it is not considered appropriate for the Council to undertake disposal of its interests to private investors within the current legislative and financial framework. However, it should be noted that the legislation controlling local authority activity could change in the future to require such a course of action.

## 2. Selling the freeholds of individual shops to retail occupiers

Individual shopkeepers have approached the Council on a number of occasions seeking to purchase the freehold of the property they lease. Within the Council's current policies, this is not an available option and the enquiries have not been pursued.

The issues relating to the capital and revenue implications of sales are much the same as for sale of parades to investors. In addition, sale of parade shops individually would lead to significant management problems where less control would generally be exercisable over properties that had been sold. To some extent, covenants could be imposed on sale of properties to control use, repair of common areas etc. However, in the event of default, enforcement procedures are lengthy, complex and costly and this would also suggest that the sale of individual shops within parades is not advisable under current circumstances. Were legislation to change, preventing local authorities from holding commercial property the sale of units to individual occupiers would be an alternative disposal mechanism to freehold sale of the whole. If individual occupiers did not wish to purchase their freeholds, these may well be marketable to smaller investors.

A detailed comparison of the merits of the two possible forms of disposal (whole as an investment v individual units to retailers or small investors) is difficult to predict globally in advance. Costs associated with a single investor sale would be lower and potential purchasers would have greater access to funding than sole traders or individual investors. However, individual occupiers may well be in the position of 'special purchasers' for the properties they occupy and have a business case for offering more than a corporate investor. Smaller investors may be able to sustain reasonable bids for freeholds but offsetting lower operating costs for their investments against the restriction on available funds.

A decision on disposal methods is most appropriately considered at the time of any requirement to dispose on the basis of market conditions prevalent then and thus a rigid policy is not considered appropriate until such a decision is made.

A small number of the Council's commercial properties are isolated single or twin units. Here there may be scope for disposal if tenants wish to purchase and the Council requires additional capital receipts. It is therefore proposed that these properties are considered on a case-by-case basis with no presumption against disposal.

### 3. Granting long leases to occupiers whilst retaining the freeholds

This presents an option to freehold disposal of retail units to facilitate investment by tenants and encourage greater responsibility for the properties. Sale in this way would generally yield a significant capital receipt whilst retaining the freehold and a greater degree of control than freehold disposal, although there would still be little control over day to day management. However, it is not considered to be a viable option under current circumstances.

### 4. Letting individual shops on terms that are more flexible terms.

In general, the leases granted by the Council mirror traditional institutional arrangements employed within the property industry. However, economic and social changes are driving the evolution of commercial lease arrangements to reflect greater flexibility. In response to government reviews of the property sector, a voluntary series of guidelines are currently operating to offer greater flexibility to the parties in commercial leases and particularly tenants. This relates to issues such as length of leases, repair obligations and most notably rent review provisions.

### 5. Letting individual shops on traditional lease terms.

The challenges facing both local authorities and retailers suggest that the maintenance of traditional arrangements will become increasingly difficult. It is therefore considered a less favourable option than a move towards the more flexible basis discussed above. However, existing leases are already drawn on this basis and could not be varied without the agreements of individual tenants either during the lease or upon renewal. Any move towards more flexible arrangements would therefore be phased over a considerable period. It is also appropriate to consider the grant of leases on traditional terms within the generally flexible approach referred to above. Such leases may not be a preferred option for either the Council or tenants in current market conditions but may be suitable in specific cases.

## 8.2 Repair

The issues identified with repairs and dilapidations suggest that a review of the liabilities undertaken by the parties may be appropriate. Currently the Council's standard lease places all maintenance responsibilities with the tenants. Property maintenance is often not seen as a core business activity of the retailers concerned, notwithstanding any contractual obligation contained within the leases. Liability is limited for much of the duration of a lease to any effect on the long-term (reversionary) value of the property resulting from a failure to repair. A tenant may seek relief

from any attempt to enforce repair obligations on the basis that they will not have an impact on the landlord's long-term property value.

Given the Council's wider role and the social importance of the neighbourhood centres, such arrangements are often seen as undesirable by stakeholders. It may also lead to significant repair costs falling on the Council in the event of tenant failure and default on the lease. In the climate of greater flexibility, it is therefore proposed that future leases are offered on a basis where the option exists for a tenant to lease properties on an internal repairing basis with the Council accepting responsibility for external and structural repairs. The costs of these repairs could either be met from an increased rent or incorporating service charge provisions within the leases to cover costs. Whichever method were adopted, it is likely that increased maintenance budgets would be required to meet the increased potential liabilities. As the internal fitting and maintenance of shops is often intrinsic to their trading, it is not proposed that potential conflicts are created by the Council undertaking these.

As indicated above, the Council can seek to forfeit the lease of a property due to a tenant's failure to repair. Even where forfeiture action may be potentially successful, it is important to consider the broader impact on the property portfolio of a 'blanket' policy. Were a landlord to forfeit every lease where items of disrepair occur (assuming such action was successful), the vacancy rate for property would inevitably increase markedly. This would negatively affect income with potential implications for services funded by that income. In the same way that a 'blanket' policy of forfeiture is not ideal, the potential problems are not a reason for a policy of inaction. It is considered most appropriate that the issue of repair is tackled in light of the range of options and remedies. This will include: negotiation, contractual enforcement and, in extreme cases, forfeiture.

### 8.3 Use

The Council's current policies restrict permitted uses to those of traditional trades or specific ranges of goods. As discussed above, these can conflict with current commercial practices and affect the viability of retail units. The restrictions also have a negative impact on the rental value of the properties.

Whilst the restrictions were conceived to provide variety within parades and minimise conflicts between trades, this is often not achieved in practice. The artificial maintenance of traditional trades is not achievable in the long term. This is evidenced by the widespread loss of traditional greengrocers and butchers on the neighbourhood parades and more widely in the country.

Clearly this does not mean that such trades cannot be viable but successful traders generally need to offer additional services or specialisations or have particular location advantages to survive. In general, conflicts are not minimised as traders tend to rely erroneously on the restriction to protect them from competition within the parade.

Uses will only succeed if there is a genuine and sustained demand for their product range and competition from other sources is inevitable.

Increasingly, flexible lifestyles of customers also lead to anomalies within specific user clauses. A parade may contain a traditional retailer of a particular product that operates broadly within traditional trading hours. The restriction of use prevents other retailers with extended opening hours offering those items even when the main outlet has closed.

It is suggested that more flexible user clauses are considered for shop units within the parades to allow traders flexibility to meet market demands. Specialist retailers retain the option of providing added value or specialist items that would not be practical for a generalist to carry whilst general food retailers would be able to compete more readily with competitors outside the parades. Such arrangements would inevitably lead to increased competition on certain basic forms of a particular product but each retailer would retain flexibility to add value and provide a service to the community in the way most appropriate to their business.

#### 8.4 Flats over Shops

The Council has experienced issues and problems from the under use of flats leased with ground floor commercial property. The commercial leases generally incorporate a residential element where this is physically located over the property. It is of potential long term benefit for the Council to retain residential accommodation for use by the commercial tenants. This arrangement also allows greater control and management accuracy over the buildings as a whole.

As social landlords, the Council is not able to separate the residential and commercial elements and let them separately without running a risk of 'losing' the residential element through the 'Right to Buy'.

Traditionally individual traders required accommodation with their business premises. Whilst such arrangements still exist, they are less common than was once the case. Parade shops are increasingly occupied either by sole traders with homes elsewhere or by multiple outlet retailers. These occupiers have no personal need to occupy directly the flats over the shops. In these cases, the commercial tenants generally either allow occupation of the flat by a key employee or sublet to generate income under an Assured Shorthold Tenancy. This letting mechanism is not available to the Council as a social landlord but has the advantage of bringing the accommodation into use, providing additional income for the tenant and avoiding the Right to Buy.

In the vast majority of cases, the flats over shops are occupied. However, there are some occasions when flats are left empty. Given the pressure locally for residential accommodation, it is intended to investigate options to allow the Council to agree the transfer of the flat to other organisations (such as Registered Social Landlords) to allow them to be brought into use. This would almost certainly require the agreement of any existing tenant to surrender the residential part back to the Council and entry into an agreement with a third party provider. Assuming that suitable mechanisms exist to allow this to be achieved whilst protecting the

Council's property interests, such a scheme will be implemented as soon as practical.

#### 8.5 Tenant Mix

The Council currently seeks to maintain variety within parades by defining permitted uses and tenant mixes according to perceived demand and desirability to local stakeholder. This, for instance, seeks to limit the number of hot food (A3) retailers operating within a parade and identifying certain key trades. In practice, demand from traders for shop units is driven by the demand of customers for particular types of retail outlet.

No retailer can create demand for their particular service where insufficient exists to justify continuation of that business. Traditional greengrocers have not closed in large numbers due to an inherent failure of those running the business but as a result of changing shopping practices by the majority to buy fruit and vegetables at supermarkets thereby leaving insufficient business to maintain a specialist outlet. Whatever the moral arguments, this is an economic reality that is also seen in the Post Office's decision to close numbers of sub post offices where there is insufficient demand to make them viable or increased demand for hot food outlets. Whether such decisions are 'right' or 'wrong' is outside the scope of the Council's property strategy. However, it is appropriate that the strategy seeks to address the consequences of such changes.

Accordingly, a flexible approach is considered appropriate to maintain occupancy levels and a broad range of services on individual parades. This may result in differing proportions of trades on specific parades but successful businesses providing a service to the community and income and employment are considered preferable to stagnating neighbourhood centres.

#### 8.6 Rent and Rent Reviews

A standard part of the traditional institutional lease has been the 'upward only' rent review i.e. on review rent either increases to an increased market rent or continues at the previous level, regardless of real market movements. In these circumstances, a tenant would continue to pay the existing rent even where market rents have fallen. The Government has indicated that it finds such arrangements undesirable and will consider legislation if the current voluntary scheme does not result in change.

Within the voluntary framework upward only rent reviews are not barred. There is however, guidance that tenants should be offered increased flexibility at appropriate rental levels. The rent payable under a lease is a product of market forces and the relative risk carried by the parties. More flexible lease arrangements would almost certainly lead to higher rental costs for tenants however this would only be pursued by them where there was a wider business argument to justify this cost.

In light of the guidance from Government and market developments, it is proposed that the Council offer leases on more flexible terms to prospective tenants with pricing options as appropriate.

Such options could include upward only rent reviews, flexible rent reviews and turnover rents.

## **9. Industrial and Employment Units**

The Council owns a number of industrial and employment units at the various neighbourhood centres and at County Oak (Enterprise Court). As with the neighbourhood shops these are let on leases to occupiers operating commercial enterprises. Many of the issues facing occupiers of retail premises and the Council, as landlord, are mirrored within this class of property.

The nature of occupancy of employment units at neighbourhood centres has evolved over time and few of the units are now used for the purposes for which they were originally designed. Where demand from viable occupiers compatible with the specific locations exists, it is proposed that this approach continues to be adopted within the framework of increased lease flexibility discussed elsewhere. In certain cases it may be that sites lend themselves to potential redevelopment and where funding and a business case can be made, it is proposed that these are pursued.

The units at County Oak were converted and developed from accommodation and land previously used for operational purposes with the intention of aiding new businesses. However, the range of unit sizes means that not all of the units are suitable for such businesses and thus some tend to be occupied in reality by more established companies. However, these units continue to provide employment for local people and contribute to the economic viability of the town.

The proposed redevelopment by West Sussex County Council of the waste transfer facilities at County Oak would lead to the loss of some of the smaller units at Enterprise Court. This reduction is unavoidable if the recycling and waste transfer facilities are to be improved for the town in this location. However, the Council has granted a ground lease to a commercial operator to allow construction of the Innovation Centre on land nearby and the net effect of the overall development will be additional accommodation for commercial enterprises on the existing Civic Amenity site. The demand for units at Enterprise Court will be monitored on estate management grounds to ensure that the accommodation provided meets demand as closely as possible within available resources. It could be, for instance, that demand leads to proposal to subdivide larger units to provide smaller units or even the redevelopment of the site as a whole. However, it is not considered appropriate that these possibilities are the subject of specific policies at this time but are better reviewed in light of occupier demand.

## **10. Ground Leases**

The Council holds freehold interests in a number of commercial (mostly public houses) and residential properties. Here long leases have either been granted on the buildings constructed on the sites or the ground leases were originally granted to allow construction of the buildings by third parties. Income from such sites is comparatively small and the Council's control limited. Any redevelopment potential is often many years away owing to the unexpired terms of the leases. It is therefore considered appropriate that the Council consider disposal of the freeholds of such sites to the occupiers where market values for the Council's interest can be obtained.

Alternatively, where public houses have ceased to be economically viable, it may be worth considering an approach to the tenants, offering a surrender of the lease. This could secure a more comprehensive redevelopment.

## **11. Surgeries**

The Council has granted a number of leases for doctors, dental and veterinary surgeries within local communities. These relate to various property types from purpose built units to converted residential accommodation. Whilst the occupiers offer a clear service to the community, they operate in a commercial way. Effectively, these properties are therefore held on a similar basis to the 'standalone' retail units, both from the landlord's and tenant's perspective. The properties are therefore let on standard terms at market rents for the relevant use.

Within any broader policies by the appropriate bodies, it is anticipated that the continued provision of health facilities locally will be of benefit to the local communities concerned. No specific policies are proposed to fundamentally alter existing arrangements. However, approaches are occasionally made by health practitioners to purchase the freehold or long leasehold of the premises they occupy. This potentially provides greater cost control for that practitioner and security to allow funding to develop the services offered. In effect, the Council, as a property owner, has little effective day-to-day control over the continuation of a particular use and it is therefore considered that sale of the freeholds or long leaseholds of such properties would not substantially weaken its position if requested. As before, it is proposed that any applications from tenants are considered on a case-by-case basis with no presumption against disposal.

## **12. Voluntary/Charitable Organisations and Social Sports and Recreation Clubs**

In the past, the Council has adopted a "concessionary rent policy" towards these groups because of the social element of the services they provide. The Property Strategy will include a detailed review of the existing arrangements and explore options to produce specific policy recommendations for future management of these arrangements. However, this is a large and complex area in its own right and considerable investigation and discussion will be required to formulate successful policies. As detailed in the report, these findings and

recommendations will be reported to the December 2004 Executive meeting.

### **13. Crawley Market**

The Council grants an operating licence for the High Street market to a commercial company. Whilst it is possible for the Council to operate a market directly, this would have significant resource implications in the purchase of stalls and employment of staff to oversee operations. As no 'in house' expertise is available, such a course of action is not considered appropriate or cost effective.

The current operation provides for a general market on Fridays and Saturdays. The operation of this service and an expansion to provide additional specialist events on additional days was comparatively recently offered for tender. Whilst a number of specialist operators expressed an interest, the most viable option has proved to be continuation of a revised operation with the existing operator. Discussions are currently proceeding to provide an integrated calendar of market events with that operator under a revised management scheme to address issues of concern to stakeholders (stall appearance, access, noise, litter, health and safety issues etc.). Subject to planning permission and agreement of the operating arrangements, this should be achievable. However, in the event that agreement is not reached, it is intended that the general market operation and specialist events are separated with specialist operators brought in under separate agreements to provide such events as Farmers markets, Continental markets and craft fairs. Any arrangements will be subject to the Council's normal approval procedures before they are implemented.

### **14. Telecommunications Sites**

The Council has comparatively recently adopted a planning lead policy regarding the location of telecommunications equipment on its land. Under this policy, discussions for the granting of suitable leases can only proceed where the principle is acceptable on planning grounds. Sites are generally only considered where the alternative would be for a greater number of small installations in close proximity to residential properties. No variation to this policy is proposed under this strategy document and each case will continue to be reviewed on its individual merits following dialogue with the telecommunications operators. Where agreements are reached, rents will be payable at market value and on terms compatible with industry practices (length of lease, maintenance obligations, safety issues etc.)

### **15. Easements and Wayleaves**

A large number of agreements exist to permit the location of utility company equipment on the Council's property. Such arrangements are a result of the need to provide services to residents or commercial occupiers within the town. In many respects, therefore, these arrangements are not at the discretion of the Council but driven by wider requirements. However, agreement to the detail of such arrangements

will continue to be undertaken in light of the Council's broader aims and portfolio requirements.

## **16. Undeveloped small areas of land**

In common with many public bodies, the Council owns a significant number of small areas of land within larger developed areas. These differ from potential building plots in that they do not have a general potential for further development or an alternative beneficial use.

In many cases, these areas provide essential open space or community areas within the overall surrounding development and are often, but not exclusively, associated with residential areas. The Council's adopted Local Plan seeks to protect areas providing essential open space through policies BN22, BN23 and BN24. In outline, these policies seek to protect existing open spaces and further implementation of the Green Space Strategy. Local Authorities are also required to adopt certain procedures requiring public notification and consideration of objections where any disposal results in the loss of 'open space'.

It would be inappropriate for any Property Strategy not to acknowledge and fully comply with such adopted policies. However, many such areas form no obvious amenity open space function and can be considered by local residents as 'nuisance' areas. In such cases, it may be more appropriate in current circumstances to consider disposal for incorporation within an adjoining property.

At present responsibility and 'ownership' of these areas within the Council is divided between different Directorates and Divisions according to the prevailing nature of the surrounding area. Whilst this division can be understood in terms of operational management terms, it tends to create uncertainty both for the Council and wider stakeholders. It is believed consistent approach would best be achieved if control and decision-making for these areas were vested in one location within the Council. Preliminary discussions as to how this may best be achieved have taken place between officers with initial conclusions suggesting that this would most logically sit within the areas of responsibility of the Head of Property Services and Procurement. It is proposed that further discussions take place to finalise recommendations under this Property Strategy, including an operating framework and resource implications.

In light of the very site specific issues affecting each area, a 'blanket' prescriptive approach is not considered the best way forward. Certain areas form essential open space whilst others do not. Any approach would need to protect the former whilst allowing sufficient flexibility to potentially dispose of the latter. Accordingly, it is likely that a framework to guide any considerations would prove most appropriate. This would address the issues to be considered in respect of a particular site, consultation mechanisms with interested Divisions and other stakeholders and the sequence of events to be followed (e.g. An indication on the general principle of whether disposal would be considered, applicant to obtain planning permission for the change of use from open space, negotiation of terms for any disposal, approval of decision to dispose on agreed terms).

It is intended that suitable guidelines will be discussed, approved and implemented within the life of this Property Strategy.

## **17. RECOMMENDATIONS**

No property owner or portfolio can ever perfectly meet diverse aims. Single purpose portfolios should result in simple, clear strategies that are easy to implement. The Council's non-operational portfolio, as discussed within this report and others, seeks to balance a number of diverse and occasionally competing aims. All these aims are legitimate aspirations for a property owning local authority. The flexible but structured approach outlined is considered the best approach to meeting these diverse requirements successfully

In light of the Council's corporate aims, the varying demands placed on limited resources and the issues discussed within this report, adoption of the following Strategies and Action Plan is recommended:

## **18. STRATEGIES**

- To optimise the revenue to the Council while having regard to its wider objectives
- To have a presumption, other than in special circumstances, against disposal of properties that are producing an appropriate rental return

## **19. ACTION PLAN**

The Council will:-

- i. Charge full market rents for all properties unless specific policies exist to the contrary and measure performance through benchmarking and an Annual Report
- ii. Carry out all lease renewals and rent reviews at the appropriate time, in accordance with lease terms and Landlord and Tenant legislation
- iii. Ensure that tenants seeking to rent premises have adequate financial standing to meet their obligations under the lease
- iv. Where possible ensure that rent payments are made in advance and interest is payable on late payments
- v. Take appropriate action to recover and reduce rent arrears when they occur by:
  - issuing invoices at least 21 days before the due payment date

- sending reminder letters 21 days after the due payment date
  - after a further 14 days, telephoning the tenant to discuss payment
  - if an arrangement to pay has still not been agreed, the case will be passed to the Valuers to arrange for legal action to be taken
  - monitoring debts on a daily basis to ensure adherence to agreed payment plans
- vi. Keep the portfolio under continual review to enable identification of poorly performing properties and consider them for disposal (where appropriate) or for further investment to improve performance
  - vii. Ensure that all properties are adequately maintained by securing appropriate funding where it is the Council's responsibility and by regular inspection, ensure that tenants in breach of their repairing liabilities comply with their obligations
  - viii. Continually review the management, procedures and use of new technology to provide the most economic, effective and efficient service
  - ix. Minimise void periods.
  - x. Further investigate options to transfer vacant flats over shops to an RSL.
  - xi. On a case-by-case basis, consider the sale of isolated commercial properties to generate additional capital receipts.
  - xii. Introduce measures on new lettings to offer increased flexibility in terms of length of leases, repairing obligations and rent review provisions.
  - xiii. Consider the introduction of internal repairing leases with increased maintenance costs to the Council being met through increased rents or service charges.
  - xiv. Introduce more flexible user clauses for neighbourhood parade shops to allow traders to meet market demands.
  - xv. Consideration of the disposal of freehold interests let under ground leases where market values can be achieved.
  - xvi. Consideration of the sale of freehold or long leasehold surgeries on a case-by-case basis.
  - xvii. Establish an internal framework for processing applications for small areas of undeveloped land.