



Audit Report –Lessons Learnt

London Road Municipal Buildings

27th June 2022

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Disclaimer

The matters raised in this report are only those which came to our attention during our internal audit work. Our quality assurance processes ensure that our work is conducted in conformance with the UK Public Sector Internal Audit Standards and that the information contained in this report is as accurate as possible – we do not provide absolute assurance that material errors, fraud or loss do not exist.

The Head of Audit is only responsible for the due professional care in developing the advice offered to managers on risk, control and governance issues. Where managers accept our advice, they accept the accountability for the consequences of implementing the advice. Internal Auditors working in partnership with managers during the consultancy assignment will not take part in any sign off decision.

This report has been prepared solely for the use of Members and Management of Newark and Sherwood District Council. Details may be made available to specified external organisations, including external auditors, but otherwise the report should not be used or referred to in whole or in part without prior consent. No responsibility to any third party is accepted as the report has not been prepared and is not intended for any other purpose.

	Page
Executive Summary	1
Suggested Areas for Improvement	8
Scope & Coverage	11
Background	13
Appendix A - Chronology of Key Events & Decisions	14

Distribution

- Chief Executive
- Deputy Chief Executive & Director of Resources (Council's S151 Officer)
- Monitoring Officer
- Audit and Governance Committee

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- 1.1 We have been asked by the Chief Executive, Deputy Chief Executive and Director of Resources (the Council's Section 151 Officer) and the Council's Monitoring Officer to provide some independent insight / review on the facts surrounding the decision-making process and any lessons learnt on the:
- sale of the Municipal Buildings (2013 to 2019)
 - London Road car park extension – lease and planning application (2017 to 2019)
 - London Road car park extension – option appraisal around implementing (2019 to 2021).

It should be noted that these officers were not in post when most of the key decisions were made.

- 1.2 We have approached this review with a strong emphasis on governance. To fulfil the brief, we have focussed on process, advice, governance and decision making - identifying organisational learning rather than apportioning blame and this approach has shaped how we have reported our findings – focussing on the good governance principles set out in – 'Delivering Good Governance in Local Government: A Framework 2016'¹ Edition (CIPFA.SOLACE).
- 1.3 The Framework enables the Council to test its governance arrangements for compliance. The Council is expected to act over and above legal requirements to ensure that the Council's business is run well. The good governance principles set out in the Framework advocate that to maintain public trust and confidence the Council should be as open as possible about all its decisions, actions, plans and use of resources.
- 1.4 Within Appendix A of the report, we have provided a summary of key events from 2013 to 2021. During 2020 onwards the Council and its officers were responding to the pandemic – playing a vital role in the Nottinghamshire Resilience Forum - supporting communities and businesses. This placed significant pressures on all officers involved and impacted the timeliness of some of the actions around the implementation of the London Road car park extension.
- 1.5 It is our view that the reality of the circumstances generated a different (and sometimes) conflicting set of external and internal constraints – that affected the governance arrangements the Council followed. These did not always conform to good governance principles expected in local government nor clearly demonstrate value for money. It is acknowledged that other social and environmental factors were considered as well as financial factors. Overall, the sale of the Municipal Building and adjoining land, the lease back of the land and the subsequent buy back

¹ The Framework has been in place since 2007 with core principles and best practice requirements fundamentally remaining the same in the 2016 edition.

of the land has cost the Council over £500K (including stamp duty land tax, legal costs and lease payments for the duration of the lease). The outcome of our work is designed to improve the Council's governance arrangements going forward. These are explored more fully in the following paragraphs and we acknowledge that improvement actions have already been taken by the Council.

Principle A - Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law

- 1.6 It is essential that there is confidence that both members and officers put the public interest first and do not (or are perceived not to be) benefiting their own financial or other interests. It is vital that interests are declared at all meetings where matters are being discussed affecting personal interests. The Council has a code of conduct for both members and officers that sets out the requirements for declaration of interests. Individuals are personally responsible for disclosing a potential conflict of interest in a meeting – it is also helpful to know early if others think that a potential conflict might arise. This ensures that there remains public trust and confidence in the integrity of the decision-making process.
- 1.7 We found that where a declaration of interest had been made (actual and potential conflicts of interests) – there was not always evidence that they were acted upon appropriately throughout the decision-making process – both through the formal and informal processes. Individuals are personally responsible for disclosing a potential conflict of interest in a meeting and ensuring that appropriate actions are taken as a result.
- 1.8 An officer declared an interest during the process for the sale of the municipal building in February 2015. We acknowledge that the conflict did not relate to the eventual buyer and that this sale process fell through, but we could find no evidence of actions followed through to minimise the conflict of interest declared and they remained involved in the process. We did not find any evidence of financial irregularities from the evidence and documents examined².
- 1.9 We confirmed that appropriate Member declarations were made for both the sale of the Municipal Buildings & land in Sept 2016 and the London Road car park extension in November 2017 – with actions taken ie the member did not take part in the agenda item and left the room. Declarations were made even though the pecuniary interest no longer applied (August 2019 – November 2021). Our review identified

² We are confident that we have sufficient and reliable evidence to support our findings and conclusions but caveat this given the timeline of the events and that many of the officers no longer work at the Council. We can only comment upon the evidence we have been seen.

the need for better recording, retention and accessibility of declared interests.

Principle B - Ensuring openness & comprehensive stakeholder engagement

- 1.10 Local government is run for the public good - Council's should therefore ensure openness in their activities. This promotes clear and trusted channels for communication to engage effectively with all groups and stakeholders. Whilst we acknowledge the commercial sensitivity of the matters under consideration – key stakeholders had very little opportunity to effectively engage with the Council in the early stages of the process. In our view, the Council could have developed an effective consultation plan to support the process without compromising commercial sensitivities. Impact analysis and business cases focussed on financial returns – not environment or social challenges.
- 1.11 We found that the reports for both the sale of the Municipal Building (2013 – 2016) and London Road car park extension (2019) were presented to Committee as exempt items with no information other than the planning applications being reported in the public domain. The Council, more recently, in 2020 and 2021, when considering the options for the London Road car park extension to do nothing, build out the car park or purchase the land back has published redacted versions of these reports and reviewed its use of exemptions. Committee papers are now published - with commercial or exempt items redacted.
- 1.12 There was no engagement plan in 2016/2017 over the sale of the Municipal Building or consultation on the proposal or need for additional parking within the London Road car park extension.
- 1.13 Information was requested by interested parties through the Freedom of Information process. Statutory duties were met but responses to the interested parties were sometimes delayed and brief resulting in further queries being raised.

Principle C - Defining outcomes in terms of sustainable economic, social, and environmental benefits

- 1.14 The long-term nature and impact of many of the Council's responsibilities mean that it should define and plan outcomes and that these should be sustainable. Decisions should further the Council's purpose and contribute to intended benefits and outcomes. We could find no substantial analysis shared with members as part of the decision-making process nor explicit links to any corporate strategy or asset management policy/plan - for both the sale of the Municipal Building and extension to London Road car park.

- 1.15 We noted that the Council agreed to accept an offer to sell the Municipal Building in April 2013. Documentation did not state the use of the buildings - whether offices, residential or a mixture of both. We could find no link to a corporate plan or asset management policy/plan but noted reference to the SMART Focus programme as part of the Council's consideration of future Council accommodation in December 2013. The report in December 2013 did not provide information on the sale offer or the business case for the sale.
- 1.16 A member task and finish group on the 'Future Council Accommodation' was set up in September 2014. This group did consider the options available for the Municipal building in October & December 2014 – considering a report from consultants on prospects of selling the building or using it for office accommodation. There was no reference to the previous offer in 2013.
- 1.17 Option appraisal and sound business case is a key feature of robust decision making and something that should be routinely evidenced in Council decision papers. In the case of the sale of the Municipal Building (2013 & 2016) and the extended London Road car park in 2017, this did not happen. It is recognised that the outcome may not have changed, however this level of analysis is needed before significant policy decisions are being made.
- 1.18 The Cabinet approved the sale of Municipal Building on the 11th April 2013. The proposal to sell the building was made before the building was vacated or a valuation had been completed.
- 1.19 Policy and Finance Committee on the 30th November 2017 – London Road car park extension paper included a business case but this only focused on the financial impact and was not supported by evidence of need, commercial case or environmental impacts. Inaccuracies were found in the initial case and a further updated detailed case was not submitted through Corporate Management Team prior to Committee.
- 1.20 Environmental and social impact was not considered in making the decision to sell the building and adjoining land. Whilst the reports referred to considering these factors there was no evidence that they had been fully considered in the decision-making process for the sale.

Principle D - Determining the interventions necessary to optimise the achievement of the intended outcomes

- 1.21 Council activities achieve their intended outcome by providing a mixture of legal, regulatory and practical courses of action. Determining the right mix of these courses of action is a critically important strategic choice. They need robust decision-making mechanisms to ensure that their defined outcome can be achieved. We note that many of the decisions were delegated to Officers but we found little evidence of effective scrutiny contribution to the sale of the Municipal Building and London Road car park extension.
- 1.22 Members rely on officers to follow proper processes and to present accurate information when they are asked to give a political steer or make a decision. Our review identified insufficient due diligence was undertaken around the sale of the municipal building in 2016 and London Road car park extension in 2017.
- 1.23 The report to Policy and Finance Committee on the 22nd July 2016 relating to the sale of the Municipal Building did not contain comments from the legal or finance business units. We noted that other reports presented on this agenda included comments from Business Manager & Chief Financial Officer – Financial Services.
- 1.24 There was no asset management plan or disposal policy in place to guide the decision on the future of the Municipal Buildings. These are now in place.
- 1.25 The final sale ‘deal’ in September 2016 was initially led by third parties. Whilst opportunities should be seized the ‘deal’ needs to be commercially viable and strategically fit with the Council’s corporate plan. The urgency surrounding the ‘deal’, in our view, placed limitations around the level of due diligence undertaken and affected the level of analysis, advice and officer decision making. The decision reports surrounding the sale did not include comments from legal or finance business units.
- 1.26 The proposal to sell the building was made before the building was vacated or a valuation had been completed which impacted on the project overall - extending the timeframe. Each time the sale of the building fell through a report was presented to Members on the proposed next step - delaying the process.
- 1.27 The project management process has been strengthened and a team put in place to manage/oversee and advise on projects. This process requires that detailed Business Cases are required and all decisions for major projects go through the Senior Leadership Team.

Principle F - Managing risks & performance through robust internal control & strong public financial management

- 1.28 A strong system of financial management and accountability is essential for the implementation of policies and the achievement of intended outcomes. We found that the papers presented for decision making or informal briefing on the sale in 2016 did not include comments from key professional disciplines, namely the Section 151 Officer and legal services providing assurance that best consideration / value was being achieved and the lawfulness of the decision. The situation the Council found itself in at the end of the transaction for the London Road car park extension (2021) meant that it was in a position of moving forward with a 'least worst' option – which was not necessarily the best value option in financial terms. On the 24th November 2021 Council approval was given to purchase back the land only for £450k and not to build the car park extension. The Municipal Building and land were sold for £450k in November 2016. This decision minimised the social and environmental impact but overall, the 'deal' has cost the Council over £500k (including stamp duty, legal costs and lease payments for the duration of the lease).
- 1.29 We found that the planned sale process approved by the Policy and Finance Committee on the 30th June 2016 was not followed for the disposal of the Municipal Buildings and adjoining land which led to a process which was buyer led – refer to para 1.25 above.
- 1.30 Legal instruments contained in the original sale agreement in 2016 were put in place. An overage³ for the adjoining land in the definition of the 'property'. A covenant⁴ for office use only was placed on the Municipal Building. As residential use has more value than office space this may have contributed to a potential loss of capital receipt.
- 1.31 On the 19th January 2021, the Deputy Chief Executive & Director of Resources under delegated powers and following strong legal advice - released the covenant on the Municipal Building formally approved by Officers under delegated powers on the 2nd September 2016 and noted by the Policy & Finance Committee on the 22nd September 2016.

³ An overage obligation requires the buyer to make a further payment to the seller, representing a share of the increased value of the property after the occurrence of an agreed trigger event".

⁴ A restrictive covenant affecting freehold land consists of an agreement in a deed that one party will restrict the use of its land in some way for the benefit of another's land. The restrictive covenant may be enforceable by one party's successors in title against the other's successors in title, as well as between the original contracting parties" ie. it applies to the original purchaser (Datch Properties Ltd) and to anyone who buys from that purchaser (JAJ Developments Ltd)

- 1.32 There was no asset management plan or disposal policy in place during 2013 - 2016 to guide the decision on the future of the Municipal Buildings. There was a protracted period over which the building was empty and deteriorating potentially reducing its value (2013 – 2016). The asset management plan and asset disposal policy are now in place.
- 1.33 Valuations were not carried out at the appropriate times based on its potential use.
- 1.34 The Policy and Finance Committee decision on the 30th November 2017 to enter into the lease agreement with DD for the land in order to extend the London Road car park was entered into without the necessary due diligence being undertaken. Financial comments were provided but these needed updating at the meeting and the wider strategic review of need was not considered.
- 1.35 The reports/decision also relied on information being ascertained from other Committee meetings or local knowledge such as the need for additional car parking in London Road. Committee reports should contain all of the information necessary for an informed decision to be made.

Principle G - Implementing good practices in transparency, reporting, and audit to deliver effective accountability

- 1.36 Effective accountability is concerned not only with reporting on actions completed, but also ensuring that stakeholders are able to respond as the Council plans and carries out its activities. The Council missed opportunities to effectively engage with key stakeholders.
- 1.37 Whilst the urgent decision made on the 2nd September 2016 to agree the final sale complied with the financial procedure rules, its close proximity to the next Committee meeting on the 22nd September 2016 (twenty days) questions the necessity for an urgent decision to be taken.
- 1.38 The following pages within the report provide the detailed findings of the review and provide an action plan for those areas which could be further improved.

The following section of the report sets out our recommendations for suggested improvements in the Council's governance arrangements – some of which may have already been actioned by management given our interim feedback during the review.

Principle A - Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law

- 2.1 On-going training is provided to Officers and Members concerning the need to declare an interest and what could constitute an interest or potential conflict of interest. They are also reminded that declarations relate to any decision-making process including those made outside of Committee meetings.
- 2.2 The Council should review how it retains information on declarations of interest made – ensuring that they are transparent and accessible. Actions taken to mitigate potential conflicts of interest should be recorded and acted upon.
- 2.3 Review members briefing when seeking a steer, sharing ideas and acting as a sounding board should well documented – ensuring that both officers and members are clear on the 'informal' and 'formal' decision making process and that appropriate due diligence is undertaken and evidenced.

Principle B - Ensuring openness & comprehensive stakeholder engagement

- 2.4 As part of key projects a communication and engagement strategy is developed and where appropriate a communication plan put in place identifying who is responsible for communicating to whom. As part of this a communication log is set up to record significant communication including details of telephone conversations.

Principle C - Defining outcomes in terms of sustainable economic, social, and environmental benefits

- 2.5 The Council should ensure that appropriate due diligence is undertaken for all key decisions and projects so that decision makers are satisfied that all possible alternatives have been considered and fully assessed.
- 2.6 The Council should ensure business cases clearly consider five key questions:
 - **Strategic case** - is there strategic fit and a strong case for change?
 - **Economic case** - has a wide range of options been considered and can we demonstrate value for money?
 - **Commercial case** - is the service delivery commercially viable and what does the deal(s) look like?

- **Financial case** - is the proposal affordable and where are the funds coming from?
- **Management case** - what is the plan for successful delivery of the proposal?

Principle D - Determining the interventions necessary to optimise the achievement of the intended outcomes

- 2.7 All decision papers should clearly align with the Council's policy framework and corporate / financial plans. They should clearly set out the business case, risks and impacts (financial and other impacts) – including consultees.
- 2.8 The Council should ensure that its forward plan (outlining key decisions) should minimise the need for urgent items – ensuring sufficient time and information is provided to members to fully consider items.
- 2.9 Key projects should map a decision-making route / plan at the outset, identifying key decisions, decision makers, timing and reporting requirements. Early assessment around specialist advice should ensure that the right people with the right skills, knowledge and experience are adequately engaged at the outset eg finance, legal, property and commercial.

Principle F - Managing risks & performance through robust internal control & strong public financial management

- 2.10 All decision reports should include comments from finance, legal and consultees.
- 2.11 Consider a review of committee reporting guidance and training ensuring that its standards on content, option appraisal, clarity and transparency of risks, impact and recommendations is followed. The review should assess the quality of policy impact assessments. All staff who write reports should attend this training.
- 2.12 Consideration should be given to how the Council can ensure 'corporate memory' on covenants imposed for previously owned assets could be retained and flagged when invoked and / or through the planning process (if appropriate).

Principle G - Implementing good practices in transparency, reporting, and audit to deliver effective accountability

- 2.13 All projects follow the Council's project management process - regardless of the lead officer.
- 2.14 The Council should ensure suitable evidence is retained for all stages of property deals / projects – including appropriate impact assessments, option appraisals and analysis.
- 2.15 Following the implementation of the new governance framework for the Council – effective scrutiny training should be provided for both officers and members.
- 2.16 A review of the effectiveness of the Council's scrutiny arrangements should be undertaken in 2023/24.
- 2.17 Consideration should be given to the current Constitutional arrangements relating to revocation of Council / Committee decisions.

3.1 We have been asked to provide the Chief Executive, Deputy Chief Executive & Director of Resources and Monitoring Officer with some independent insight / review on the facts surrounding the decision-making process and governance and any lessons learnt - ensuring that the Council's Constitution and Code of Conduct(s) have been complied with.

Objectives of the review were: -

- To review and assess the decisions taken, and reasons for those decisions, in relation to the sale and lease of land and buildings at London Road, Newark
- To review and assess the quality and timeliness of information that was provided to decisions makers
- To identify any omissions or failures in practice and procedure relating to decisions made and negotiations that took place in relation to the sale and lease of land and buildings at London Road, Newark
- To make recommendations on lessons to be learnt and improvements to be made on Council practice, policies and procedures

3.2 We approached this review in two phases. During phase one – *information gathering* – we held discussions with the following people / organisations:

- Deputy Chief Executive & Director of Resources
- Director of Planning & Growth
- Principal Legal Officer
- Business Manager – Economic Growth & Visitor Economy
- Business Manager- Finance
- Councillor R Blaney
- Councillor D Lloyd
- Councillor P Peacock
- Newark Civic Trust
- Protect Newark Green Spaces

3.3 We also examined the following documentation:

- Committee records (Full Council, Policy & Finance, Scrutiny, Cabinet, Planning)
- Electronic records and emails
- Ad hoc information provided by interviewees

3.4 Completion of phase one culminated in the production of a chronology of key events enabling the Council to gain a full understanding of the facts and decision-making timeline.

3.5 Phase two of the review involved:

- analysis of the results
- an outcome report
- identification of organisational learning (considering improvement actions already taken)

3.6 This outcome report will be considered by the Council's Audit and Governance Committee who will identify any improvements to the Council's governance framework.

3.7 We have approached this review with a strong emphasis on governance. To fulfil the brief, we have focussed on process, advice, governance and decision making - identifying organisational learning rather than apportioning blame and this approach has shaped how we have reported our findings– focussing on the good governance principles set out in – 'Delivering Good Governance in Local Government: A Framework 2016 Edition (CIPFA.SOLACE).

3.8 During our meetings there were issues raised which we have not covered in detail within this review as they were not within the scope. These included: -

- Freedom of Information process
- Health & Safety
- Planning Regulatory Committee
- The behaviour of council contractors during the protests, including the health and safety concerns
- Detailed review of the protest and actions taken
- Complaint's process

- 4.1 In 1974 Newark and Sherwood District Council became the owners of the Municipal Building and Land at London Road, Newark, following local government re-organisation. The building was then leased to Nottinghamshire County Council through a series of leases from 1974 for use as office accommodation and a Registry Office. Nottinghamshire County Council gave notice that they wished to terminate the latest lease when it expired. The land and building remained empty from May 2013 until it was sold to Datch Property Services Ltd in November 2016 for conversion into offices.
- 4.2 Following the sale a proposal was put to the Council by the new owner to convert the land between the Municipal Building and the Library into a car park extension. Planning permission was granted in November 2018 with work to commence within three years. The Council entered into a lease with the owner to lease the land and construct the car park. Prior to commencement of the works further concern was raised by local groups and petitions were received concerning the removal of a number of trees from the site to build the car park. A number of Freedom of Information requests were made, e-mails sent and discussions held between various parties to resolve the issues. Following negotiations with the land owner in November 2021 the Council decided to purchase the land back from the land owner to cancel the lease and agreed not to construct the car park.
- 4.3 The process covered several years and most of the officers involved in the original decisions to sell the Municipal Building and adjoining land (2013 – 2016) are no longer employed by the Council. Following the raising of concerns over the sale of the Municipal Buildings and Land and the subsequent planned London Road car park extension lease, the new management team commissioned Assurance Lincolnshire to undertake a review of the process and report on lessons which can be learnt from this.
- 4.4 A summary of key events is detailed in Appendix A to assist with context, understanding and significance.

Sale of the Municipal Building and land

Date	Event/Decision	Decision/Action	Decision made by
2012/13	Nottinghamshire County Council gave notice that they wished to terminate the lease on the Municipal Buildings.	N/A	N/A
2013	The Council did not have a revised asset management plan in place and had not made a decision on the future of the building when they were approached with an offer of £615k for the building and land.	N/A	N/A
08/04/13	<p>Exempt report recommending agreement to recommend to Cabinet that the offer to purchase the former Municipal Offices at Baldertongate in the sum of £615k be supported subject to the Council obtaining an independent third party valuation and the purchasers agreeing to allowing Nottinghamshire County Council to remain as tenant until 31st December 2013.</p> <p>Note: the report did not specify the use of the building eg as offices or accommodation.</p> <p>Members discussed whether, given the Council's stated intention to vacate Kelham Hall, the former Municipal Offices would provide potential suitable office accommodation for the Council. It was noted that the property was a grade II listed building which would make alteration and adaptation of the internal layout more complex, repairs and running costs would be significant particularly as the property was not currently in a good state of repair particularly on the upper floors and some new build would be required as the building was not large enough to accommodate the Council's requirements.</p> <p>It was agreed that the premises would not provide suitable accommodation for a new Council headquarters and the proposal to sell was supported.</p> <p>This was the same report presented to Cabinet on the 11/04/13.</p> <p>Note: Director of Resources comments included and supported the recommendation in the Cabinet report.</p>	Recommend go to Cabinet for approval	Policy, Overview and Scrutiny Committee
11/04/13	Exempt report agreed recommendation made by Policy Overview and Scrutiny Committee that the offer to purchase the former municipal offices in the sum of £615k be accepted subject to the Council first obtaining an independent third party valuation and the purchasers agreeing to allow Nottinghamshire County Council to remain as tenant at the existing rent of £49.5k per annum until 31st March 2014;	Cabinet approval	Cabinet

Appendix A – Chronology of Key Events & Decisions

Date	Event/Decision	Decision/Action	Decision made by
	<p>and Cabinet agree that the former municipal offices at Baldertongate, Newark, are not suitable for use as District Council Headquarters based on the information provided by officers.</p> <p>This item was considered by the Policy Overview and Scrutiny Committee at their meeting held on 8th April 2013. The Committee determined that the premises would not provide suitable accommodation for a new Council headquarters and the proposal to sell the property was supported.</p> <p>No independent or in-depth review was undertaken to support this - no option appraisal provided linked to strategic plans. These were undertaken as part of task and finish group in 2014.</p> <p>Note: Director of Resources comments included and supported the recommendation.</p>		
May 2013	<p>Independent valuation provided by Richard Watkinson of £725k referred to in a later report to Members (29/01/15).</p> <p>This was not reported at the time and no evidence of going back to the purchaser or Members as significantly different to the offer.</p>	N/A	N/A
May 2013	<p>Council moved to a Committee style of governance with the Policy and Finance Committee being the main decision making Committee.</p>	N/A	N/A
05/12/13	<p>Exempt report on the future Council accommodation.</p> <p>The report set out the options for relocating the Council's offices from Kelham Hall - identified as a possibility as part of the SMART Focus programme. This report provided an analysis of the implications for the Council.</p> <p>Four options were identified for the replacement of the Council's offices:</p> <ol style="list-style-type: none"> 1. Building on land already in the Council's ownership. 2. Building on land in external ownership (purchasing land or alternatively entering into a pre-let or pre-purchase agreement with a landowner/developer). 3. Occupying a property which is a refurbished or extended property already in the Council's ownership. 4. Renting or purchasing an existing property from a third party. 	Committee Approval	Policy Committee

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Date	Event/Decision	Decision/ Action	Decision made by
	<p>It stated that a report was undertaken by Asset Management to examine these options (April 2013 updated August 2013). It concluded that the third and fourth options were not achievable because the suitable property was not available on the open market or already in the Council's ownership.</p> <p>No reference to Asset Management Plan or Corporate Plan – although noted reference to SMART Focus programme.</p> <p>Background papers referenced:</p> <ul style="list-style-type: none"> • Kelham Hall report and valuation August 2013 – Savills • New offices – Options Appraisal Overview August 2013 • Feasibility Study for potential relocation of NSDC offices 5/5/2011 <p>Note: The report contained no legal or resources comments / advice to members. The report was co-authored by the Chief Executive and Director of Resources.</p>		
06/03/14	<p>Emails - Following more detailed inspections by the purchaser and a reduced offer being made, the purchaser pulled out of the sale due to the identification of structural issues, asbestos and damage to the roof.</p>	N/A	N/A
03/07/2014	<p>Report providing an update to the future Council accommodation progress approved at the Policy Committee meeting held on 5th December 2013. It covered the following issues:</p> <ol style="list-style-type: none"> a) The sale of Kelham Hall. b) Further consideration of the feasibility of locating the new offices on alternative sites and buildings. c) The progress made following the decision, in principle, to relocate to new offices on the site adjacent to Castle Station. d) Updated comment on costs for the continued occupation of Kelham Hall in the longer term. <p>Within the report of 5th December 2013, it was made clear that there was no single existing site option capable of incorporating the Council's entire requirements within a single property. Option B was therefore excluded from further consideration but completeness, the report reviews the current availability of alternative buildings.</p>	Committee Approval	Policy Committee

Appendix A – Chronology of Key Events & Decisions

Date	Event/Decision	Decision/Action	Decision made by
	<p>The report included the Municipal Building but made no reference to the previous sale offer.</p> <p>There was no reference to up-to-date asset management / corporate plans.</p> <p>No background papers but referenced the 5th December 2013.</p> <p>Note: Report provided option appraisals and included comments by the CEX and Director of Resources.</p>		
10/09/14	First meeting of the Future Accommodation Task and Finish Group. Considered a report from consultants setting out the options including the Municipal Buildings.	Not decision making group	Policy Committee July 2014
08/10/14	<p>Future Council Accommodation Task and Finish Group report on the Municipal Buildings including summary details of the consultants report and an update on dilapidations negotiations, prospects for selling the building, interest in the building and prospects for NSDC use.</p> <p>Concluded that whilst the building could form part of a multi-site solution there were ongoing repair costs and high running costs and this needs to be considered against the potential benefits of selling or leasing the building.</p>	Conclusions noted	N/A
04/12/14	<p>Future Council Accommodation Task and Finish Group report on agreement of dilapidations with the County Council and three viable options for purchase received.</p> <p>There is no record of the reporting of the previous sale falling through or seeking a decision on the action to take ie seeking new buyers.</p>	Requested to be updated on any sale.	N/A
29/01/15	<p>Exempt report sets out the receipt of three offers from £500k to £450k for use as offices or mixed residential and offices. The report set out that the valuation in May 2013 had been £725k but the building had deteriorated and the initial valuation did not consider the state of disrepair.</p> <p>The report suggested that the Committee may wish to consider evaluating the offers on the basis of credibility and track record of purchaser, nature of scheme including social, economic and environmental benefits in addition to value.</p> <p>Agreed that the former Municipal Building, be market tested with final offers being invited not later than Friday, 13th February 2015, with a view to a firm recommendation</p>	Committee Approval	Policy and Finance Committee

Appendix A – Chronology of Key Events & Decisions

Date	Event/Decision	Decision/Action	Decision made by
	<p>as to sale being made to the Policy & Finance Committee on Wednesday, 25th February 2015.</p> <p>Any transfer includes appropriate safeguards in respect of the dilapidations sum or, alternatively, this is factored into the evaluation of bids received; and the criteria set out in the report, be used in the evaluation of offers received.</p> <p>Note: The report contained no legal or resources comments / advice to members.</p>		
18/02/15	Email – officer declaring an interest with one of the firms placing an offer (not related to Datch Properties Ltd). As author of the report they asked another officer to sign off the report.	N/A	N/A
25/02/15	<p>An exempt report detailing five offers between £523k and £450k was presented – mixture of offices and residential. A supplementary report outlined some changes to bids received after the closing date, increasing one to £705k and removing another. The Committee passed delegated authority to the Officers to contact all the bidders requesting final offers and following consultation with all Members of the Committee to conclude the sale.</p> <p>Note: The report referenced no background papers and had neither legal or resource comments / advice.</p>	Committee Approval	Policy and Finance Committee
19/03/15	<p>An informal meeting was held between the Chief Executive and Members of the Policy and Finance Committee. Agreed to take proposals back to the Policy and Finance Committee as it was only a few days away.</p>	Consultation	Chief Executive
26/03/15	<p>An exempt report provided details of five offers between £705k and £400k – a mixture of office and residential – the highest being offices. Consideration was given on two offers based on the evaluation criteria and it was approved for the highest offer to be accepted passing over delegated responsibility to Officers to take the steps necessary to effect the sale and impose suitable provisions to ensure conversion and occupation as offices and complete within four weeks.</p> <p>Whilst the evaluation criteria was set there was no scoring mechanism used and the report did not evidence a full review against the criteria; it just set out the details of the offer and included a paragraph setting out the factors for</p>	Committee Approval	Policy and Finance Committee

Appendix A – Chronology of Key Events & Decisions

Date	Event/Decision	Decision/ Action	Decision made by
	<p>the two preferred offers. There was no reason given for the four week deadline.</p> <p>We also noted that the report stated: ‘An informal meeting of the Policy & Finance Committee was held on Thursday, 19th March when the revised proposals were considered. However, in view of the fact that there was a scheduled meeting of the Policy and Finance Committee on Thursday, 26th March it was agreed that a final decision should be made at that meeting.’</p> <p>Note: The report contained no legal or resources comments / advice to members.</p>		
10/09/15	<p>An exempt report stated that the sale had fallen through due to queries over the requirement to convert to offices as soon as possible and the condition of the building. It was recommended to remarket the property under private treaty with Richard Watkinson acting on the Council’s behalf.</p> <p>Note: The report contained no legal or resources comments / advice to members.</p>		Policy and Finance Committee
30/06/16	<p>Exempt paper (released in public domain 6th April 2017). Providing update on previous sales of Municipal Buildings & Land which had fallen through.</p> <p>Presented 3 options to consider:</p> <ol style="list-style-type: none"> 1. Go back to remaining interested parties 2. Retest the market 3. Undertake basic maintenance and let out as offices <p>Approved retesting the market – Officers had delegated authority to determine sale approach – informal tender or way of private treaty.</p>	Approval	Policy and Finance Committee
22/08/16	E-mail from DD offering £400k and agreeing to the terms for the covenant and clawback. Suggests exchange 12 weeks or sooner.	N/A	N/A
02/09/16	E-mail. Revised offer of £450k received from DD. Suggested that the covenant run for the same term as the claw back agreement (25 years). Wishes to an exchange and complete to ensure there is no further deterioration as move into the Autumn / Winter weather.	N/A	N/A

Appendix A – Chronology of Key Events & Decisions

Date	Event/Decision	Decision/Action	Decision made by
02/09/16	<p>Urgent Decision. That the property be sold to DD in the sum of £450k subject to a covenant requiring that it be used for office accommodation only and subject to a clawback provision in the event of the car park area being redeveloped, such conditions to apply for a 25 year term from the date of the transfer.</p> <p>The reason for the urgency is that the purchaser is keen to complete the purchase in order to undertake works to render the property wind and watertight prior to the onset of the winter months. He is prepared to offer an enhanced purchase price on the proviso that the sale is agreed, and the transfer completed quickly.</p> <p>Note: The decision notice contained no reference to legal or Finance comments / advice obtained.</p>	Signed by CEX in consultation with Leader and Leader of Opposition	n/a
05/09/16	<p>E-mail stating completed Urgent Decision notice for sale to DD for £450k.</p> <p>It stated that details of the covenant over the building and the clawback/overage on the land.</p> <p>It sets out some concerns over the price offered based on previous valuations but confirmed that the Council had gone back to the valuer who confirmed that for offices the value was about £450k whereas for residential it would be £600k. Valuers' strong recommendation was - given that DD was prepared to accept the covenant re office use – the offer was reasonable.</p> <p>Note: The email also stated this would be confirmed in writing – email / document not located.</p>		
22/09/16	<p>Exempt report for noting to the Policy and Finance Committee 'Urgent Decision', the Council agreed to sell the land (car park and green space known to some as the library garden) and building, to the value of £450k. The decision was classed as urgent as work was required to make the property wind and water tight prior to winter and the purchaser was prepared to make an enhanced offer on the proviso that the sale is agreed and transfer completed quickly.</p>	Note – urgent decision already taken	Leader and Leader of the opposition

Appendix A – Chronology of Key Events & Decisions

Date	Event/Decision	Decision/ Action	Decision made by
	<p>Committee agreed that as part of the sale a restriction (by way of a covenant) would be required that the buildings and land could only be used for office space and ancillary use for 25 years. Plus a clawback provision on the land to the side of the building which was used as a car park for the building requiring that the Council receive an overage payment (of 50% of the difference between the enhanced value and base value) on each occasion during the overage period that the buyer implements a Planning permission.</p> <p>The constitution allows for urgent decisions to be made and require signatures from the Leader, Opposition Spokesperson and the Chairman of the appropriate Committee. The urgent decision document was dated 2 September which is only a few weeks away from the Committee meeting.</p> <p>There was no reference to Corporate Strategies or town center plans.</p> <p>Note: The report contained no legal or finance comments / advice to members.</p> <p>Other agenda item reports included comments from the Business Manager & Chief Financial Officer – Financial Services.</p>		
01/11/16	<p>Sale to Datch Properties Limited completed.</p> <p>Overage Deed – on the land to the side of the building currently used as a car park not the building.</p> <p>The covenant for office use on the Municipal Building.</p>	N/A	N/A
24/06/19	<p>Sold building for £375k (The Move Market website) to JAJ Developments Limited.</p>	N/A	N/A
19/11/19	<p>Planning application to convert the property into residential flats approved by officer delegation. Submitted 06/08/19 by Mr Andrew Derry.</p> <p>It is the landowner's responsibility to comply with covenants - JAJ Developments Limited.</p>	Approved	Officer delegation

Appendix A – Chronology of Key Events & Decisions

Date	Event/Decision	Decision/Action	Decision made by
	It's not for the planning authority to police or enforce covenants.		
Nov 2020	E-mail/Telephone – DD (Datch Properties Ltd) contacted the Council concerning the covenant on the Municipal Building as it had been converted into flats which was not in accordance with the overage deed & covenant.	N/A	N/A
19/01/21	<p>Authority given under delegated authority to release the covenant - which was agreed by Officer Urgency Decision on 02/9/16 (and noted by the Policy and Finance Committee on 22.9.16).</p> <p>Decision was taken by the Director of Resources & Deputy Chief Executive under delegated powers which gives him and other Directors the power to take action in respect of covenants and legal matters.</p> <p>The decision was based on strong internal legal advice and involved discussion with the Leader of the Council, Chief Executive, Director of Development, Officers and Datch Properties Ltd.</p>	Covenant released	The Director of Resources & Deputy Chief Executive
14/10/21	E-mail – from Councillor Blaney to the Chief Executive querying why the covenant was released and the terms of release.	Query	N/A
11/11/21	E-mail response from Assistant Director Legal and Democratic Services to Members clarify position on the covenant following queries raised at the meeting on the 1.11.21.	N/A	N/A
11/11/21	E-mail response from Councillor Blaney to above e-mail setting out his disappointment and questioning the decision.	N/A	N/A

London Road Car Park Extension

Date	Event/Decision	Decision Type	Decision made by
August 2017	<p>The new owner of the building and land, Datch Properties Ltd, contacted the Council with a proposition for them to build a car park extension on the land at the rear of the property for public use enabling them to finance the re-development of the building. They suggested that the Council may wish to lease back the land at a cost of £30k per year over a 25-year term.</p> <p>The Council already had an agreement with Datch Properties Ltd to lease the current car park to the side of the building on a shared income basis accessing it through London Road car park.</p>		

Appendix A – Chronology of Key Events & Decisions

Date	Event/Decision	Decision Type	Decision made by
11/07/17	Car parking at Municipal Buildings discussed at CMT. Drafting a profit share arrangement for decision by CMT before taking to DD.	Information	N/A
25/10/17	Meeting with DD to discuss the proposal.	N/A	N/A
30/11/17	<p>Report seeking approval to create additional car parking at the rear of the former Municipal Buildings, subject to lease arrangements and planning approval.</p> <p>There was no reference to Corporate Strategies, wider car parking strategy or town center plans. The report was vague in assumptions – using terminology such as ‘it is likely that the car park will be extremely well used’. The report also referenced the loss of landscaped area and loss of two mature trees. It made no reference to potential interested parties – other than the owner of the municipal buildings and land.</p> <p>Officers was given delegated authority to seek planning permission and subject to planning permission approval enter into a lease with the owner of the land.</p> <p>Note: Report included comments from Director of Resources & Section 151 Officer around financial capital costs & income. It referenced a calculated business case – which only provided financial analysis.</p> <p>There was no legal comments / advice.</p> <p>Note: Declaration of Interest by Cllr D Lloyd – who left the meeting for this agenda item.</p>	Approval	Policy and Finance Committee
28/05/18	Agreement for lease entered into setting out the next steps before the actual lease was entered into. This bound the Council to the lease once planning permission was obtained. However, there was a clause added which gave both parties the option to terminate if planning permission was not obtained by the due date.	N/A	N/A
31/07/18	E-mail from the Council to DD turning down opportunity for the additional car parking on the grounds that the terms don’t stack up. Refers to an internal meeting held to discuss it.	N/A	N/A
20/11/18	<p>Planning application submitted and was approved (8 votes for, 5 votes against and 1 abstention) with a requirement to start within three years of the decision.</p> <p>Consultees included letters sent to occupiers of thirty three properties, Newark Town Council, NSDC Conservation, NSDC Environmental Health, NCC Highways, Archaeological Officer, Newark Civic Trust, NSDC Access and Equalities Officer, Tree</p>	Approval	Planning Committee

Appendix A – Chronology of Key Events & Decisions

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	<p>Officer and Historic England. Two recommended rejection and there were a number of points raised generally concerning the loss of trees, loss of green space and the need for additional car parking.</p> <p>The report by the Business Manager detailed the reasons behind the recommendation for approval taking on board the comments made and various policies. Further correspondence was reported as received after the agenda was published from the Newark and Sherwood Green Party and the Planning Case Officer. A petition with 712 signatures was also presented for refusal.</p>		
04/12/18	<p>Letter from Council to Datch Properties Ltd clarifying the overage position on the car park extension.</p> <ul style="list-style-type: none"> that the provisions in the Overage Deed dated 1 November 2016 have not been triggered by virtue of the proposal to construct additional car parking at the rear of the former Municipal Buildings. majority of the land which will form the new car parking area formerly comprised the rear garden of the Municipal Buildings and this area of land was not included within the Overage Deed. There is a small area to the side which is included in the Overage Deed but as this formerly constituted car parking and does not trigger an overage payment. 	N/A	N/A
10/12/18	Newark Civic Trust send in a request for information relating to the planning application and lease.	N/A	N/A
17/01/19	<p>Council responds treating as a Freedom of Information Request and will send through some of the information but not the lease as this this is classed as exempt under section 43(2).</p> <p>Confirms no formal written Business case for the car park but comprehensive financial projections were made. The design and access statement explains how busy the car park is and the congestion caused. No traffic study, traffic movements were observed and members of the public who use the car park spoken to.</p> <p>All responses only consider this car park, there is no reference to the other car parks within the Town Centre to get a more strategic view and no evidence of other factors other than financial.</p>		Information Governance Officer
22/01/19	Following receipt of planning approval, the lease between the Council and Datch Properties Ltd was signed and became effective on 22 January 2019 for twenty five years. This bound the Council to build the car park and pay the annual lease	N/A	N/A

Appendix A – Chronology of Key Events & Decisions

Date	Event/Decision	Decision Type	Decision made by
	instalments of £30k from January 2021 until at least the first break clause in fifteen years time (2034).		
10/02/19	A complaint raising concerns over the approval of the planning application was submitted to the Council on behalf of Newark Civic Trust, Newark Sports Association, Professionals in Newark and Newark Green Party. A further Stage 2 compliant was raised in April 2019 and a response made in May 2019.	N/A	N/A
07/03/19	During Full Council meeting NSDC received a petition from 1,700 constituents objecting to the building of the car park. Following receipt of this it was agreed that the project be halted so that a review of the scheme could be undertaken. The Director Growth and Regeneration was given responsibility to review the scheme.	Decision on way forward	Full Council
11/03/19	Council responded to the compliant with further information provided. Provided information including numbers of spaces, clarification of consultation carried out and declined knowledge of the impending sale of the Municipal Building until after the lease was signed. Referred to Council meeting and project being halted.	N/A	Deputy Chief Executive
19/06/19	Paper to Senior Leadership Team setting out the proposed scope of the review of council plans for London Road car park extension on grass and treed area on land at the former Municipal car park.	N/A	N/A
26/09/19	<p>London Road Car Park Extension – Options Appraisal</p> <p>Exempt paper – (<i>withdrawn see below</i>) – on the options for the project and undertaken at the request by the Council on the 7th March 2019.</p> <p>Councillor D Lloyd proposed that Exempt Agenda Item No. 28 – London Road Car Park Extension Options Appraisal be withdrawn from the agenda given the recent announcement of the availability of significant funding through the Government’s towns fund initiative and the need to undertake a wider strategic review of car parking in Newark.</p> <p>AGREED (unanimously) that this item be withdrawn from the agenda.</p> <p>Note: Item not considered again by the Policy & Finance Committee until 23rd September 2021 when they referred it for consideration by Full Council on the 12th October 2021.</p> <p>No declaration of interests declared for this item.</p>	N/A	Policy & Finance Committee

Appendix A – Chronology of Key Events & Decisions

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19/06/20	Email from Director – Planning & Growth to Newark Civic Trust confirming: <ul style="list-style-type: none"> Car parking remains part of the Newark Place Strategy – which is likely to be completed No decision made to implement the car park until the matter is considered by the Policy and Finance Committee for a decision (next available committee date September 2020). No plans to undertake work beyond planned maintenance. 	N/A	N/A
April 2021 to July 2021	Procurement process initiated to ascertain costs for London Road car park extension project.	N/A	N/A
25/05/21	Email from Newark Civic Trust asking for an update on London Road car park extension development. Follow up questions on the 27/05/21 if car park strategy completed and adopted as part of review.	N/A	N/A
27/05/21	Email from Director – Planning & Growth to Newark Civic Trust stating that project on hold to allow review – review complete and will be presented to Policy and Finance Committee 24 th June 2021 for a decision.	N/A	N/A
07/06/21	Email from Newark Civic Trust to Director – Planning & Growth and Business Manager – Economic Growth requesting the following information: <ol style="list-style-type: none"> When the plans were suspended at the back end of 2019 you wrote to the Civic Trust explaining that there would be a full car park strategy review and this would include local stakeholders, possibly the Civic Trust. Has the car park strategy been completed and/or adopted by NSDC? Is the review on the 24th a review of the works to the green space only or is it a review of car parking across the town/district? Finally, you stated that my presumption about NSDC being eager to develop the space was incorrect. If that is the case, can you explain why the works are being tendered with a contract start just three weeks after the Committee are meeting? 	N/A	N/A
25/07/21	Meeting with DD and NC at NSDC to discuss a way forward. A proposal submitted to create a new lease covering the current car parking area and re-siting the car parking for the residents.	N/A	N/A

Appendix A – Chronology of Key Events & Decisions

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23/09/21	<p>Director – Planning and Growth presented a report on the London Road car park Extension Scheme Options which was requested by full Council on the 7th March 2019.</p> <p>Agenda Item 18 (open report) providing background and options headlines re London Road car park Extension and Agenda item 27 (exempt) which provided detailed confidential information on the options.</p> <p>Recommended Option B - Do the scheme as proposed (including removal of trees).</p> <p>At the meeting Committee advised that an approach had been made by the site owner which:</p> <ul style="list-style-type: none"> • impacted option A and didn't require building on the green space • new option around lease terms. <p>Committee agreed that given the significance of proposal and that more time needed to consider the information that the report be considered by full Council on the 12th October 2021.</p> <p>Note: Subsequently the Council as published supplementary reports on London Road car park - redacted version of exempt report – agenda item 27.</p> <p>Declaration of interest – Cllr D Lloyd – not present for this agenda item.</p>	N/A	Policy & Finance
12/10/21	<p>On 12 October 2021 at a meeting of the Full Council a proposal was made to continue with building the car park and this was agreed.</p> <p>At the meeting Councillors called for '<i>a thorough investigation into the information that was presented to members; initially for selling the municipal buildings and then the leasing back of the land</i>' between the municipal building and the library.</p> <p>Declaration of interest – Cllr D Lloyd – not present for this agenda item. Cllr D Lloyd confirmed that he had taken no part in the debate or discussions on the development of the report on London Road car park extension. He stated that he worked for</p>	Approval	Full Council

Appendix A – Chronology of Key Events & Decisions

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	<p>Appletree Ltd – a director being DD who is also a Director of Datch Properties Ltd.</p> <p>We confirmed that Cllr D Lloyd made the appropriate declarations of interest for when we worked</p>		
<p>October 2021 to November 2021</p>	<p>Various media coverage on the London Road car park extension and demonstrations re the campaign to protect the green space and stop the car park extension.</p> <p>On-line petition – ‘stop the chop and save our trees’</p> <p>Protect Newark Green Spaces & Newark Civic Trust</p>		
<p>24/11/21</p>	<p>Report on the current progress of the project.</p> <p>Officers made progress to implement the car park extension with an updated ecology survey undertaken and fencing installed. An online petition had now reached 6,081 signatories.</p> <p>Datch Properties Ltd made an improved offer of £450k for the Council to purchase the site (£150k less than the previous offer). The condition was that the land was not converted into a car park but retained as green space.</p> <p>The report recommended that the previous decision (12/10/21) by the Council is rescinded and proposed that the Council agreed to purchase the freehold land known as London Road car park extension for £450k.</p> <p>This did not represent value to the taxpayer as in November 2016, the Municipal Buildings and the land were sold for £450k. The revised offer is just for the land.</p> <p>However, Members accepted that the land has social and environmental value and there is public support to retain the four trees and green space.</p> <p>Approval was given to purchase the land back and agree not to build the car park.</p> <p>Declaration of interest – Cllr D Lloyd – not present for this agenda item.</p>	<p>Approval</p>	<p>Extraordinary Full Council</p>