

## THE EXECUTIVE

25 JANUARY 2005

### DRAFT FINAL REPORT OF THE MARKETING OF SHOPS SCRUTINY PANEL

MARKETING OF SHOPS SCRUTINY PANEL	FOR DECISION
<p><i>Final Reports of Scrutiny Panels are submitted to the following parts of the Political Structure as set out in Paragraph 11 of Article 5B of the Constitution:</i></p> <ul style="list-style-type: none"><li><i>(i) Scrutiny Management Board – for any advice or suggestions prior to finalisation and formal presentation to the Assembly</i></li><li><i>(ii) The Executive – for consideration and, if necessary, response in a separate report or verbally to the Assembly</i></li><li><i>(iii) The Assembly – for adoption of the report, its findings and recommendations</i></li></ul> <p><b>Summary</b></p> <p>This report details the action taken to meet the Panel's terms of reference, having regard to the timescale for the work of the Panel.</p> <p>As a starting point, the Panel considered the Council's overall objective from the letting of Council and privately owned commercial properties which is to obtain not only the best commercial advantage but also best environmental and social advantage to the local community.</p> <p>Having regard to the types of shopping parades that are in the Borough, statistics were provided as to the number of Council owned units. This included the current level of vacancies and the income streams generated. Similar details for privately owned shops were not available.</p> <p>Glenny has been acting as the Council's contractor for commercial estates management since 1998. Details of the agreed letting process of Council owned shops, based upon financial viability, were provided which includes a vacant property checklist and a Guide to Leasing a Business Property for new applicants. This did not address the needs of the community nor potential planning considerations.</p> <p>As a marker to the performance of the letting process, the Panel noted that only two complaints had been received since 31 January 2003, only one of which was upheld. Another indicator of performance was the comparison of the marketing of shops with other boroughs.</p> <p>The Panel then considered the difficulties experienced in the management and letting of vacant shops, particularly in relation to location and condition of shop units coupled with a nominal repairs budget.</p> <p>The influences of the Unitary Development Plan (UDP) and emerging Local Development Framework (LDF) were noted. In particular, with respect to the latter, the links between economic development, social cohesion and environmental sustainability. These will be brought together under a new retail health check, which includes a Statement of Community Involvement and future planning policies for the Borough.</p>	

Support for failing retail areas from a regeneration perspective was also outlined, notably the exemptions from Best Value (BV) under the General Disposal Consent. Other Council powers to control vacant shops were considered, including estate management, health and safety and the Council as landlord, including the limitations of the 'Stay Open' clause in the Council's standard form of lease. Information as to the limited powers available to control privately owned shops and their use was presented

Finally the Panel had regard to the influences the emerging LDF may have in the conversion of vacant shops into disabled flats to meet the Council's wider housing needs.

**The report raises the following key points:**

Property Services, together with Glenny provide an efficient, comprehensive service in managing and letting vacant shops in the Borough.

Securing tenants based on their financial viability ensures the Council's Best Value (BV) objective is met but it is important to meet the needs of the community and to provide easy access to convenience goods in secondary locations (i.e. shops on a main road with a substantial passing trade) and tertiary locations (i.e. shops on side streets with a limited passing trade). Proposals to introduce Ward Member consultation as part of the letting process and the effects of the emerging LDF, notably the Statement of Community Involvement, will look to address this. In addition, exemptions from best financial considerations (Best Value) on the grounds of economic, social or environmental well being are now possible under the General Disposal Consent.

Council powers are extremely limited in ensuring shops are kept open and privately owned shops are kept in good condition whilst costly refurbishment/upkeep of Council owned vacant properties is limited due to budget constraints.

However, potentially costly anti-social behaviour as a consequence of properties being vacant is addressed through weekly health and safety site visits.

Planning, regeneration and the work being done on the emerging LDF influence the provision/marketing of shops within the Borough

Consideration to the conversion of suitable, non viable empty premises to disabled flats may meet the needs of the wider community.

**Recommendations**

This Panel, in light of its investigations and representations received, make the following recommendations:

1. To include contact details of the Barking and Dagenham Chamber of Commerce, who can refer applicants to Counsellors for advice on preparing business plans for new businesses, in the Council's 'Guide to Leasing a Business Property'. It is also to include the contact details of Regeneration's Economic Development Team. The Panel also recommends that a leaflet explaining retail training opportunities through the Regeneration and Environment Department is included in the Guide.

2. Ward Member consultation should become an integral part of the letting process to meet the needs of the community. In so doing they should be consulted before a decision is taken on what offer for tenancy to accept. The Panel also recommends that where Ward Members views differ from Property Services the matter will be referred to the Director of Regeneration and Environment personally for a decision and that the Scheme of Delegation be reworded to reflect this
3. To provide DRE with the opportunity to review lets having regard to the General Disposal Consent, which allows economic, social or environmental well being to be considered over BV when deciding to let a vacant property, prior to marketing a property.
4. Planning Officers should be consulted on any planning considerations prior to the DRE deciding what offers to accept as part of the lettings process.
5. The Statement of Community Involvement (a requirement of the emerging LDF) should include a survey of what type of shops the public would wish to see in parades.
6. To retain "Keep Open" clauses in the Council's standard form of lease so that the Council can take legal action and to deter tenants from closing their business.
7. To refer suitable, non viable empty premises that have been extensively marketed to the Housing Strategy Division to be considered for conversion to flats, subject to planning and other considerations.

### Reason

To meet the needs of the community by applying a holistic approach to the marketing and management of Council owned shops and by, meeting the needs of local communities, to influence the provision of private shops in the Borough.

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## 1 Introduction

- 1.1 At its meeting on 28 April 2004 the Scrutiny Management Board (SMB) agreed to set up a Scrutiny Panel to examine the way the Council markets and manages its own vacant shops and is able to influence the provision of private shops in the Borough.

## 2 Membership

- 2.1 The membership of the Panel comprised Councillors W F L Barns (Lead Member), Mrs J E Bruce, Mrs J E Cooper, Mrs K J Flint and D S Milles.

- 2.2 John Tame, Business Centre Co-ordinator, Chamber of Commerce, was the Panel's external representative.
- 2.3 Jim Mack, Head of Asset Management and Development, Regeneration and Environment Department (DRE), was the lead service officer, Roger Phillips, Head of Housing Business Services, Housing and Health Department, was the independent scrutiny support officer and Julie Willing, Democratic and Electoral Services, provided administrative support to the Panel.
- 2.4 Other officers who attended the Panel included:
- Colin Beever, Head of Property Services, DRE
  - Jeremy Grint, Head of Regeneration, DRE
  - Tim Lewis, Development Control Group Manager, DRE
  - Rob Farley, Senior Planning Officer, DRE
  - Muhammad Saleem, Solicitor to the Council, Corporate Strategy Department (CSD)
  - Linda Parker, Corporate Legal Manager, CSD
  - Nick Slater, Professional Services Officer, Asset Management & Development, Corporate Estates Team, DRE
- 2.5 Representations were also made by:
- Nick Vivian, Director responsible for Asset and Property Management Division, Glenny
  - Jonathan Hunnibal, Associate Director, Glenny.

### **3 Terms of Reference**

- 3.1 The terms of reference of the Panel were:
- (i) To examine the way that the Council (a) markets and manages its own vacant shops and (b) is able to influence the provision of private shops in the Borough.
  - (ii) In doing so, to give particular consideration to the outcomes in terms of choice and environmental aspects, and to have regard to planning and wider regeneration aspects.
  - (iii) To have regard to any equalities and diversity, and health issues
  - (iv) To report back with findings and any recommendations

### **4 Work Programme**

- 4.1 The Panel met on the following dates – 10 August, 6 September, 20 September, 4 October, 18 October and 1 November 2004.

### **5 Background**

- 5.1 The Council's objective is to obtain the best commercial advantage from the letting of their own properties and to obtain the best environmental/social advantage to the local community and to influence similar objectives to commercial units in the private sector

by providing the widest possible choice of retail outlets (i.e. greengrocers, specialists shops)

5.2 There are three categories of shopping parades:

Primary (e.g. Barking Town Centre and the Heathway)

Secondary (i.e. shops on a main road with a substantial passing trade, e.g. Hedgemans Road, Woodward Road, Church Elm Lane)

Tertiary (i.e. shops on a side street with limited passing trade, e.g. Church Street, Stansgate Road, Althorne Way, Chelmer Crescent)

5.3 At present the Council owns the freehold of 273 shops in 25 parades. The Council also has a leasehold in two other shops in Barking. One is held by the Department of Education, Arts and Libraries for their youth services, the other was acquired as part of the Vicarage Fields development.

5.4 Currently there are 14 vacant shop units of which 10 are currently being marketed and of these, seven are currently under offer (as at 18.10.2004). The remaining four shops are in Julia Gardens and are being held for possible conversion to a community hall. There are more parades that are entirely privately owned and the Council does not have exclusive ownership in all the other parades where it has property. In some cases it is a minority owner.

5.5 Below is a summary of the Council's commercial property portfolio and the average income from the different classes of property the Council currently holds:

<b>Class</b>	<b>No. of Properties</b>	<b>Rental Income (£)</b>	<b>Average Income/Property (£)</b>
Health Facilities	24	187,159	7,798
Industrial	34	551,104	16,209
Leisure	39	162,744	4,173
Miscellaneous	44	341,966	7,772
Retail Shops	273	1,610,859	5,901

## **6 Council's Letting Agent**

6.1 The Council's BV Report for Property (2001/2002) noted that the Council had outsourced the commercial property functions approximately five years previously under the old Compulsory Competitive Tendering regime. That report also noted that Property Services were regarded essentially as the Council's 'estate agent' and that the contracts were let externally rather than via internal bids to address resource difficulties in the team at the time.

- 6.2 Glenny has been the Council's contractor for the Commercial Estates Management and has been responsible for managing the Council's commercial portfolio since 1998. The contract was originally for three years and this was extended for a further two years as Property Services were involved with producing the BV Report.
- 6.3 The Council's Estates Management Contract was re-tendered in 2003 and Glenny was found to be the most cost effective provider of all the bidders. Their total bid was approximately 30% less than their nearest rival. The contract was extended for a further three years again with an option to extend for a further 2 years.
- 6.4 Working with Glenny, the Council has introduced a system of vetting applicants for commercial properties, which includes rigorous financial checking. Applicants are required to produce business plans, analysis of the business plans, bank reference etc.
- 6.5 An incentive scheme that rewards applicants who complete new lettings quickly has been introduced. There is no evidence that this has had any impact at this point.
- 6.6 Glenny provide unrivalled local market knowledge within the Borough and a comprehensive range of integrated services to maximise the Council's assets. Their offices are strategically/centrally located and they have established a good working partnership and understanding of the Council's Core Objectives. They work with the Council to ensure BV letting and adhere to Key Performance indicators to promote and enhance the Key Objectives, notably a Cleaner, Greener, Safer Borough.

## **7 Current Letting Process of Vacant Council Shops**

- 7.1 Once a property has been vacated it is inspected by Glenny who prepare a 'Vacant Property Checklist' to confirm all necessary immediate steps have been taken (i.e. security, repairs, rubbish clearance) and any urgent remedial work is carried out by the Council. A weekly check of all empty properties is carried out to ensure health and safety requirements are met.
- 7.2 Due to cost implications, the ingoing tenant is responsible for all other matters identified in the report once the property is let (i.e. refurbishment). There is a rent free period to assist new shop keepers during refurbishment of the premises and potential tenants are advised to include such costs in their business plans for consideration. However, refurbishment can be extremely costly and is unlikely to attract financially sound tenants or increase the letting potential of vacant premises in tertiary locations.
- 7.3 Glenny then produce a Marketing report for the Council's Property Services. Once approved, Glenny commences marketing (for a standard minimum six week period – this continues until a suitable applicant is found if no offers have been received).
- 7.4 A Guide to Leasing a business property is available to new applicants. The Guide explains some of the concepts involved in leasing a commercial property and the things that Glenny will be looking for when they assess various applicants for commercial properties. Applicants should have a sound business knowledge and are advised to seek their own legal advice. However, it may be appropriate to offer new businesses relevant training, i.e. food hygiene.

- 7.5 The Landlord and Tenant relationship is by definition 'adversarial' in nature. Nevertheless, the 'Guide to Leasing a Business Property' is a valuable tool to aid prospective tenants and is clearly written. It has been crystal marked for Plain English and is available in the community languages and has a range of useful contact details.
- 7.6 At the end of the six week period Glenny provide the Council with a table summarising all the applicants/offers received and outlining their financial soundness, (County Court Judgements (CCJ), bank references, an appraisal of the business plan, independent references and financial viability based upon a report from the Council's external business consultant and appraiser), together with a recommendation of which is the tenant with the best financial appraisal.
- 7.7 The information provided also includes any rent free periods requested, proposed user clause(s) and planning considerations (i.e. is a planning change required and whether there is likely to be any problem in obtaining permission).
- 7.8 The table is reviewed by Property Services and a decision about which offer to accept is made based upon the financial standing of the potential tenant, the proposed use, planning requirements, existing uses in the parade and any other appropriate implications e.g. parking requirements, potential to attract nuisance etc.
- 7.9 Glenny are then informed of which offer to accept and negotiate the heads of terms to be approved by the Council's Property Services and agreed by the successful bidder. Glenny instruct solicitors to complete the letting and the lease is completed.

## **8 Complaints**

- 8.1 There have been two Stage 2 Corporate Complaints and one enquiry received by the Council's Corporate Complaints Section since 31 January 2003 . One of the complaints, concerning a delay in responding to an enquiry, was upheld. The other complainant was not happy with service given by the Council as a whole and felt they had come across various barriers when trying to rent a business premises in the borough. This complaint was investigated and it was found that customers receive prompt and fair service from the Department.

## **9 Comparison of Marketing with other Boroughs**

- 9.1 A comparison of the letting process of void premises across neighbouring local authorities was undertaken to see whether or not the number of void premises was similar or disproportionately high to this Borough. Six local authorities were approached but only three responded. Levels of voids compared favourably with other authorities.

## **10 Difficulties experienced in the management and letting of vacant shops**

- 10.1 The partnership with Glenny is considered successful, has proved very effective and has reduced the Council's voids to a minimum. Nevertheless there are issues concerning the shopping parades:
- The majority of the shopping parades owned by the Council are not in primary locations, with some of the parades in locations having very low levels of passing trade resulting in low levels of turnover.

- Quality of shop units and relatively poor state of repair. The commercial property portfolio has a nominal repairs budget. Ingoing tenants lease shops without repairs being carried out and rent free periods are agreed to reflect the cost of the works undertaken. Refurbishing properties prior to letting is also unlikely to result in lettings to tenants with a strong financial base and would therefore probably not be a justifiable expenditure.

10.2 The Council's longstanding policy is to provide as wide a mixture of different uses as possible within a parade to meet the various needs of residents. Whilst this approach reduces the number of directly competing units in the same parade, it also limits the letting opportunities available to the Council. However, if the Council were to decide that its main aim in owning retail shops is simply income, then this policy could be reconsidered.

## **11 Planning Perspective/Council influences on shopping parades.**

11.1 The Borough's Unitary Development Plan (UDP) seeks to protect the vitality and viability of shopping areas by restricting the number of 'non-retail' uses permissible within individual retail parades. A balance is sought between pure retail activities (as defined within Class A1 of the Use Classes Order) and other complementary services uses such as banks, estate agents (Class A2 uses) and restaurants/takeaways (Class A3).

11.2 In most local shopping parades the Council seeks to restrict the proportion of non-retail frontage to a maximum of 30% of the measured frontage. In primary shopping areas this percentage is reduced to 15% and in tertiary areas it can be raised to 60% or be wholly unrestricted. However, shopping patterns have changed over the years and some shopping centres have become run down and subject to a large number of vacancies. In these circumstances, the Council will consider exceptions to the above policy where it can be demonstrated that a shop has been vacant for a substantial period of time despite attempts to let it at reasonable terms.

11.3 The Council must also implement local and central Government policy which seeks to focus development, especially retail development, in locations accessible by a choice of means of transport. Out-of-centre shopping sites are taking away trade and some shops are not doing well because of changes in shopping patterns. Out-of-centre sites that would be likely to impact on the vitality and viability of existing town centres are therefore highly unlikely to be granted planning permission.

11.4 The Council can have a significant influence through planning policy by allowing conversions and change of use away from retail uses in failing parades. This would however be a market led solution as the Council could not force owners to make changes.

## **12 Unitary Development Plan (UDP) / Local Development Framework (LDF)**

12.1 The Council adopted its current UDP in 1995. A fresh review of the UDP has been proposed and it is intended that this will be replaced with a new style development plan known as a LDF.

12.2 The LDF is a requirement of new Government legislation and is seen as a key document in the delivery of the sustainable development agenda. The production of the LDF is a three year programme, to adoption, and will require buy-in from across the



Council's various departments since it will be the delivery mechanism for planning and other Council strategies and policies, such as the Community Strategy, Air Quality Strategy and will include a Spatial Strategy. The LDF will bring together all the elements that are involved in the delivery of economic development, social cohesion and environmental sustainability and will provide a greater scope of what planning should consider.

12.3 Existing Government Planning Policy Guidance looks to assess need and protect retail. New guidance being brought about by the LDF will require DRE to commission consultants to undertake a Health Check for all shopping centres and parades within the borough and requires a survey of population change, economic growth or decline, retail floor space, shop counts, expenditure patterns, accessibility, pedestrian flows and consumer attitudes.

12.4 This will be used as the base for determining future planning policy for the shopping areas of the borough.

Important considerations will be:

- The opportunity for expansion, improvement or redevelopment and the need to encourage the best of existing retail facilities;
- The scope for diversification of uses to broaden the range of town centre activities;
- The opportunity for housing and offices, particularly in mixed use developments;
- Accessibility, the impact of traffic and the availability of public transport.

12.5 Forming part of the legislation, a 'Statement of Community Involvement' will also be required setting out how the community will be involved in the LDF process and major planning applications. It will identify who the Council will involve, why, how and when. The Government is keen for the community to be involved as early as practical in the planning process and the document will be independently examined.

12.6 The evidence gathered will be the basis to consider a change of use of a shop, taking account of, amongst other things quality, quantity and convenience. A retail health check is already being undertaken by the Barking and Dagenham Local Strategic Partnership. However, the numbers of different categories of shops must tie in with figures set by the Greater London Authority (GLA).

### **13 Regeneration Perspective**

13.1 The Council has influence through regeneration in dealing with 'failing' retail areas through providing alternative uses using Compulsory Purchase Orders. This includes using tertiary shop units to develop proposals around social enterprise, e.g. start units for cultural industries, thus linking the provision and marketing of shops with wider regeneration projects.

13.2 Retail and customer service training up to NVQ Level 2 is currently available in Barking and Dagenham provided through the Learning and Skills Council London East, the contract for which is currently being retendered

13.3 In addition, training for retailers in Barking Town Centre is in place and it is intended to promote this scheme across the Borough.

13.4 The Local Government Act 1972, Section 123, requires Councils to obtain best consideration when disposing of assets. However, a new General Disposal Consent became effective from 1 September 2003 which permits local authorities to dispose of property at less than best consideration on social, economic and environmental grounds. Under the new provisions discounts of up to £2 million per disposal can be agreed.

## **14 Other powers to control vacant shops**

### **14.1 Planning**

- Conditions can be imposed in planning consents. As a more flexible alternative, a Local Planning Authority (LPA) and landowner or occupier can enter into an agreement to regulate use and other matters.

### **14.2 Estate Management**

- Pro-active management of the shops to try to obtain as wide a mix of tenants as possible in order to maximise the choice for the community.

### **14.3 Health and Safety Legislation**

- Employers are liable for the health safety and well being of its employees
- Employers are required to ensure that every workplace, modification, extension or conversion under their control complies with any appropriate requirement of the Regulations

### **14.4 Where the Council is the Landlord**

- The standard form of lease controls such things as:
  - authorised use
  - opening hours
  - repairs and maintenance
  - indemnity (including health and safety)
  - use lease terms to control/limit nuisance to adjoining occupiers, residents and customers

### **14.5 “Keep Open” Clause**

- The Council cannot force a tenant to keep a shop open for business unless the lease contains a “Keep Open” clause.
- The Council’s standard form of lease includes a “Keep Open” clause, and therefore, the Council should in theory be able to take legal action to enforce this covenant in the event that a trader were to deliberately keep a property closed.

- However, recent case law has severely limited the landlord's powers to enforce "Keep Open" clauses and it is likely following a recent House of Lords decision that the most that the Council would receive would be an award for damages, not a directive to the tenant to open the property for business. However damages can only be obtained where financial loss can be shown, e.g. a key tenant not staying open in a shopping parade or centre.
- Without the clause no action by the Council would be possible whereas with it, the threat of legal action could make many tenants reconsider their decision to close a property.
- Damages will only be payable where the landlord can prove clear financial loss e.g. a key tenant in a shopping centre or parade and affecting the viability and rental income from the rest of the parade.

#### **14.6 Privately Owned Shops**

- The Council has no right to require privately owned shops to be kept in a good state of repair and condition unless they become a danger to the public (Dangerous Structure Notice)
- The Council has certain powers through planning, building control (Dangerous Structure Notices), licensing and environmental health legislation to curtail the use of and the opening hours of shops in which it has no legal interest.

### **15 Secondary/Smaller shopping parades**

- 15.1 Small shopping parades within residential areas perform an important function for local people particularly with 'topping up' purchases which may be bought at larger shops in bigger centres. They also provide people with easy access often to convenience goods and in that sense are important in sustainability terms. They also provide a community focus, particularly where there are shops such as small post offices and add variety to an area.
- 15.2 It is considered that the closure of sub-post offices has had and will continue to have a detrimental effect on the viability of some shops and shopping parades. There will be a reduction in the 'draw' to certain shops and parades thereby reducing the amount of money spent in the shops and thus affecting the financial viability of certain shops and parades.

### **16 Equality and Diversity**

- 16.1 Shops in secondary and tertiary locations contribute to local community integration.
- 16.2 Prospective tenants are invited to complete an Equal Opportunities Monitoring Form. However very few do and they cannot be required to do so, hence a breakdown of lets by ethnicity was not available to the Panel.
- 16.3 Current planning policy makes it possible to convert vacant shops into flats. However, there have been problems in the past because vacant shops in the middle of parades, rather than at the ends, had been converted. The resulting 'break' in a row of shops has had an impact on trade either side of the converted flat and is not necessarily the better

option for a disabled person who would be required to navigate around shoppers to access/exit a property that is in the middle of a parade. The policy may be reviewed through the LDF to address the above problems. However, whilst finance for conversions could be raised through the Housing Strategy Division through Registered Social Landlords (RSLs), the cost of conversion could be substantial given that it may be necessary/more appropriate to rebuild an entire block/row of shops.

## **17 Conclusion**

- 17.1 The number of empty properties compared favourably with neighbouring boroughs and the number of Corporate Complaints lodged in relation to the marketing of shops is, over a long period, minimal. This is a positive indication that Property Services provide an efficient, effective customer friendly service to potential/existing tenants and that Glenny, working in partnership with the Council, provide both best value and good practice.
- 17.2 However, Glenny let on a purely financial basis. Whilst the stringent financial checking may have to some extent eliminated, as far as possible, the 'have a go' tenants, the low rental level that the Council's commercial shops can command, does mean that the Council still receives many such applicants.
- 17.3 The table drawn up by Glenny is reviewed by Property Services and a decision about which offer to accept is made based upon the financial standing of the potential tenant, the proposed use, planning requirements, existing uses in the parade and any other appropriate implications e.g. parking requirements, potential to attract nuisance etc.
- 17.4 The Panel acknowledges the financially based argument that it is better, for example, to open a hot food shop rather than for a shop to remain empty until a tenant whose trade will benefit the wider community or meet a gap in the market (i.e. a specialised shop) can be found. However, by consulting Ward Members before deciding what offer to accept based upon an applicant's financial viability, the needs of the community may be better met.
- 17.5 The Panel found that rent free periods to assist new shop keepers overcomes costly refurbishment of the premises to the Council whilst regular inspections of vacant properties safeguards against the increased potential for costly anti-social behaviour (i.e. broken windows) leading to health and safety risks for which the Council would be liable.
- 17.6 Marketing of shops either owned or let by the private sector is influenced by a range of services within the Council, including planning and regeneration.
- 17.7 The Panel in recognising that the existing UDP seeks to protect the vitality and viability of shopping areas by restricting the number of non-retail uses permissible within individual retail parades, also acknowledges that the emerging LDF will increase the planning influence on the provision and marketing of shops
- 17.8 The Council has lost appeals against the change of use of a premises on the basis of this is given greater consideration where 30% (a randomly set figure) of shops are vacant. The emerging LDF is seen as a much better tool than current policy because of its overall balanced approach.

- 17.9 Under Section 123 of the Local Government Act 1972 Council's are required to obtain best consideration when disposing of assets. On 1 September 2003 the revised General Disposal Consent became effective. The General Disposal Consent allows local authorities to dispose of assets at a discount of up to £2 million less than best consideration per transaction if there are benefits in terms of economic, social or environmental well being.
- 17.10 The Council's standard form of lease has a "Keep Open" clause'. Whilst the most that the Council would be likely to receive would be an award for damages and not a directive to the tenant to open the property for business, without the clause, no action at all would be possible. The clause may also act as a deterrent to tenants considering to close a property.
- 17.11 The loss of secondary/smaller shopping parades and resulting loss of easy access to convenience goods can be detrimental to both people with limited access (those who find it difficult to travel by public transport, notably older people, the disabled and those with young children) and the 'body' of the local community.
- 17.12 Whilst the LDF will take accessibility into account, it is imperative that the utmost is done to save these types of shops.
- 17.13 The policy difficulties encountered in converting vacant shops to residential flats may be addressed through the LDF which will look at the vitality and viability of shops. Where extensive marketing has failed to find a suitable or viable lessee for a shop premises and the shop is not located in an unsuitable centralised position in a parade, consideration should be given to the conversion to a residential home. In these circumstances, and where all efforts to let a shop have failed, this should be referred to the Housing Strategy Division who may be able to identify funding opportunities with key RSL's.

#### **Background Papers used in the preparation of this report:**

Public copies of agendas and minutes of the Marketing of Shops Scrutiny Panel meetings held on 10 August, 6 September, 20 September, 4 October, 18 October and 1 November 2004.

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## MARKETING OF SHOPS SCRUTINY PANEL

<b>Recommendation</b>	<b>Officer responsible for implementation (Department)</b>	<b>Deadline for implementation</b>	<b>How progress will be monitored</b>
To include contact details of the Barking and Dagenham Chamber of Commerce in the Council's "Guide to Leasing a Business Property".	Colin Beever Department of Regeneration and Environment Economic Development Team	3/2/04	Six monthly progress report to SMB
To include details of appropriate training in the above Guide.	Colin Beever Department of Regeneration and Environment Economic Development Team	3/2/04	Six monthly progress report to SMB
<p>To consult Ward Members before a decision is taken as to what offer for tenancy to accept.</p> <p>To amend the Council's Scheme of Delegation to reflect this.</p>	<p>Colin Beever Department of Regeneration and Environment Economic Development Team</p> <p>Julie Willing Corporate Strategy Department Democratic and Electoral Services</p>	<p>3/2/04</p> <p>3/2/04</p>	Six monthly progress report to SMB
To provide Regeneration and Environmental Department with the opportunity to review lets having regard to the General Disposal Consent exemptions from best consideration on the grounds of either economic, social or environmental well being prior to marketing a vacant property.	Colin Beever Department of Regeneration and Environment Economic Development Team	3/2/04	Six monthly progress report to SMB

To refer decisions to apply the General Disposal Consent exemptions from best consideration on the grounds of either economic, social or environmental well being to the DRE on the advice of Regeneration and Environment Department.	Colin Beever Department of Regeneration and Environment Economic Development Team	3/2/04	Six monthly progress report to SMB
To consult Planning Officers on any planning considerations prior to any decision being made as to what offer to accept.	Colin Beever Department of Regeneration and Environment Economic Development Team	3/2/04	Six monthly progress report to SMB
To undertake a survey of what type of shop the public wants forms part of the Statement of Community Involvement evidence base in relation to the LDF.	Gordon Glenday Department of Regeneration and Environment Strategic Planning	3/2/04	Six monthly progress report to SMB
To retain 'Keep Open' Clauses in the Council's standard form of lease.	Colin Beever Department of Regeneration and Environment Economic Development Team and Muhammad Saleem Corporate Strategy Department Legal Services	3/2/04	Six monthly progress report to SMB
To refer appropriate, non viable empty premises to the Housing Strategy Division to be considered for conversion to flats.	Colin Beever Department of Regeneration and Environment Economic Development Team	3/2/04	Six monthly progress report to SMB