

The Disposal of Heritage Assets  
by Public Bodies

*A report by Green Balance for The National Trust*

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The National Trust  
32 Queen Anne's Gate  
London  
SW1H 9AB

Telephone · 020 7799 4541  
Fax · 020 7222 5097  
[policy&campaigns@nationaltrust.org.uk](mailto:policy&campaigns@nationaltrust.org.uk)  
[www.nationaltrust.org.uk](http://www.nationaltrust.org.uk)

Green Balance  
9 West End  
Kemsing  
Kent  
TN15 6PX

Telephone · 01732 763591  
Fax · 01732 763990  
[info@greenbalance.co.uk](mailto:info@greenbalance.co.uk)

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## Foreword

This report shines a spotlight on how central and local government are disposing of land, buildings and chattels of heritage interest. It was triggered by evident concern that public bodies were not caring for their heritage assets well enough and disposing of them too freely. This was supported by the frequent experience of the National Trust in England, Wales and Northern Ireland being asked to take over responsibility for buildings, land and chattels from the public sector.

The study by Green Balance is probably the most comprehensive exercise ever undertaken into this issue and reveals a confused and uncoordinated picture with a dearth of good information and a confusing medley of manuals and guidance on what to do. There are hot spots of concern – historic courts, mental health institutions, mansions in public parks and the impact of the Private Finance Initiative – but the failures tend to be more down to practice than policy.

For central government, the basic framework is in place to deal with historic buildings made surplus to operational requirements by macro-policy changes in areas such as defence and health, although there are gaps on land and chattels to plug. The picture for local authorities is more patchy. The lack of ring-fenced resources to maintain and look after places of historic interest provides a powerful trigger to dispose and the means for ensuring that disposal recognises their heritage value are much less reliable and not subject to monitoring or enforcement. For both central and local government there is a clear need to recognise better the many benefits which historic places can and do provide, rather than focussing solely on their effect on the books. Both practice and policy in Wales and Northern Ireland need particular attention.

With a growing interest in asset management across the public sector there are new opportunities to firmly embed heritage into the positive management of what is still the public's estate. In combination with the safeguards, advice and support provided by the other recommendations in this report we believe there is a clear way ahead and look forward to the debate.

**Tony Burton**

Director of Policy and Strategy  
The National Trust

## Summary

In respect of the disposal of heritage assets by public bodies, the doctor reports ...

### The worried patient

The patient presented with a worry that our cultural and natural heritage was under threat as a result of the pressure from the Treasury on the public sector to dispose of land, buildings and other assets which were not paying their way. Would there be a flood of heritage assets onto the market? What kinds of assets are involved and what are the trends in their numbers and types? What are the risks and opportunities they present? How best can the heritage be managed and safeguarded? Are there differences between England, Wales and Northern Ireland?

### The doctor's approach

Little information is held directly on these issues, though all Departmental Investment Strategies were studied for an insight into central government and selected Asset Management Plans analysed for local government.

The principal means selected for gathering facts and opinions was questionnaire surveys. These were distributed to property managers in all Government Departments, all local authorities in Wales and Northern Ireland, and selected local authorities in England (one sample based upon anticipated high quality of asset management and another sample based on difficulties experienced with Grade I and II\* Buildings At Risk). A subsequent brief questionnaire was circulated to all local authority asset managers via the Institute for Public Finance. Questionnaires were also sent to all relevant statutory heritage agencies and to third party

heritage bodies (principally via the forums of Heritage Link and Wildlife & Countryside Link).

Non-responses from key organisations were followed up with telephone calls, but the response rates remained generally poor from local authorities and the voluntary sector. Selected cases highlighted by heritage bodies and the voluntary sector were examined in more detail, with some being presented as case studies to illustrate the study findings.

### Environment

The circumstances giving the patient cause for concern centre on legislation and Government policy on property asset management. Resource accounting rules introduced since 2000 make the cost of holding capital assets more transparent in Government Departments' budgets, encouraging assets and liabilities to be managed more effectively. This can be expected to promote the disposal of properties which are not fully and effectively utilised, and the Treasury has offered additional incentives for Departments to dispose of surplus assets. The prospect of this outcome is reinforced by the commitment in the 2004 Spending Review for the disposal of £30 billion-worth of public sector assets by 2010, in some elements with clear heritage implications.

There are similar pressures on local government to dispose of assets which can be released as surplus, though here the pressure is applied by policy and financial incentives more than by legislation (with financial allocations increasingly made on the basis not only of needs but of performance). Each local authority has been required since 2000 to prepare an Asset Management Plan, which drives a corporate and strategic approach to the use of property. (The speed of change and its scale has nonetheless resulted in great variety in the progress

made by individual local authorities.) Guidance from central government on asset management has been issued since 2000 and periodically updated. One element of this has encouraged the disposal of surplus property.

Heritage features in the accounting arrangements of central and local government, but only weakly. The Treasury's *Resource Accounting Manual* moderates the requirement to obtain the best return for the taxpayer from disposals where this is consistent with government policies for the protection of historic buildings and areas, and additionally heritage assets may be sold for lesser sums – i.e. with a gift element – without Treasury authority for smaller amounts. There are comparable arrangements which allow local authorities to dispose of land for 'less than best consideration', with most gifts of up to £2m not requiring the Secretary of State's authorisation. These powers are optional rather than duties.

However, there is one significant practical arrangement which is well-established in central government for identifying intended asset disposals and drawing the attention of heritage agencies to those which may be of heritage interest. This is the *Register of Surplus Public Sector Assets*, administered by English Partnerships. Properties placed on it are made available to other government bodies for a period of 40 days before being offered onto the open market. Agencies such as English Nature found that the alerting service had worked well, providing a window of opportunity in which to engage in the disposal process to attempt to secure heritage interests. (There was evidence, though, that not all disposing Departments had always placed all sites on the Register.) Furthermore, the Ministry of Defence, as the most prolific disposer of heritage assets, had signed Declarations of Intent with a series of agencies by which it committed to offer Sites of Special Scientific Interest for disposal direct

to nominated conservation bodies at market value.

Much more detailed advice on the management and disposal of heritage assets is provided to both Government Departments and local authorities in England by the Department for Culture, Media and Sport, from a heritage perspective. The guidance to Government Departments has become in effect mandatory by being incorporated into other higher level obligations, such as the *Framework for Sustainable Development on the Government Estate*, the *Common Minimum Standards for the procurement of built environments in the public sector*, and a parallel arrangement for wildlife heritage through the *Green Ministers' Biodiversity Checklist*. The heritage advice to local authorities has many parallels with that to Government Departments. However, it does not have quite the same high status, though it does incorporate higher expectations of heritage stewardship through both the management of heritage assets and disposals. The central difficulty in applying this advice is that the pattern of heritage asset disposals is driven by asset management imperatives rather than heritage interests. The overwhelming evidence from both central and local government is that heritage issues are only taken into account once a decision on disposal has already been taken for property management reasons.

Comparable heritage guidance is not available to Departments of the devolved administrations or to local authorities in Wales or Northern Ireland. A *Review of the Historic Environment in Wales* in 2003 described a series of significant problems which need to be addressed: the Minister's broad acceptance of these does open the way for significant improvements in practice. Like England, Wales and Northern Ireland have no satisfactory monitoring of prospective or actual heritage asset disposals by local authorities, but unlike England have no equivalent of the English Partnerships'

*Register* to monitor central government. Discussion between heritage agencies and prospective vendors is at a lower level than it is in England, though this may partly be accounted for by the apparently lower level of heritage asset disposals in Wales and Northern Ireland. Additionally, Buildings At Risk registers are less well developed, particularly in Wales, than they are in England.

Superimposed on the procedures for asset management and for managing and disposing of heritage properties is the Private Finance Initiative. This is aimed at making public money go further and tackling the backlog of under-investment in infrastructure faster than would otherwise be practicable. Under PFI contracts the private sector, in return for fixed annual fees, takes responsibility for providing infrastructure services for a period of years. The private sector is usually allowed considerable flexibility in how services are provided. This can make historic buildings redundant if the private sector prefers to provide new premises instead or to concentrate services in larger premises at fewer locations. Historic Courts are particularly at risk. Where an existing property portfolio is bought and the premises leased-back to the public sector, some assets may subsequently become surplus and be disposed of, but heritage assets in this position can be expected to fall outside the scope of the usual disposal obligations unless an obligation is retained in the PFI contract. The arrangements therefore set up a tension between revenue maximisation and the protection of heritage interests which can be difficult to resolve, place heritage in opposition to the public body's financial objectives, and portray heritage as a problem rather than an opportunity. With 200 projects having a capital value of £26 billion in the pipeline for the next five years, the challenge to heritage assets is significant.

## Observed condition

Buildings comprise the main heritage assets disposed of by the public sector, together with a small amount of land having a heritage (usually wildlife) interest. The disposal of chattels is modest by comparison.

The disposal of heritage assets by Government Departments in recent years has been dominated by those from the Ministry of Defence and the Department of Health. The Ministry of Defence has received on average over £200m annually from disposals, providing many hundreds of hectares every year into a wide range of new uses. This is a major business activity, supported by a raft of policy commitments to good practice in its various aspects. Property surplus to the requirements of the National Health Service has in recent years been passed to NHS Estates for disposal. This realised £1.5 billion in the four years to 2000, and substantial receipts since then, dominated by redundant mental health institutions. However, the successful disposal of the bulk of this 'retained estate' has resulted in the winding-up of NHS Estates, leaving individual NHS Trusts to dispose of any surplus assets they may have in future. Other Departments disposing of significant quantities of heritage assets are the Department for Transport and the Department for Constitutional Affairs. Disposals by other Departments are modest, and those by Government agencies generally minor.

The types of heritage asset disposed of by local authorities are remarkable for their variety. In terms of volume, there was substantial variation among authorities, from those which had so efficiently disposed of property and raised many millions of pounds in capital receipts that there was little left available, to a significant proportion (half the survey respondents) which had never disposed of any.

Information on the recipients of heritage assets disposed of by Government Departments proved difficult to obtain on a systematic basis, but from local government the surveys found that 43 out of 66 named assets went to the private sector (mainly commercial bodies and developers), 16 to the voluntary sector and 7 elsewhere into the public sector. 51 of the assets were sold at market value, but at the other end of the scale one in eight of the assets identified were financial liabilities, either incurring a maintenance cost in excess of their income or having a significant negative value because of the cost of repairing them to a satisfactory condition.

The information available on current practice in heritage asset disposal in Wales and Northern Ireland is thin. There are some indications that the volume of disposals is proportionately less than in England, but this is not a reliable observation. There is less institutional attention to disposals in the two countries and in Northern Ireland there is a background of heritage issues not being taken particularly seriously. Efforts by the Environment and Heritage Service in Northern Ireland to protect heritage during the disposal process can be viewed as unhelpful by disposing bodies and contrary to their main objective.

## Diagnosis

The principal reason for the disposal of heritage assets by Government Departments was shown by survey to be revenue raising. The redundancy of assets amongst Government Departments had various causes, notably: the contraction of military activity and its concentration at priority locations in respect of the Ministry of Defence; a switch of mental health policy from institutions to care in the community in the case of the Department of Health; the abandonment of road construction schemes by the Department of Transport; and, for

the Department for Constitutional Affairs, the difficulty of historic Courts complying with the access requirements of the Disability Discrimination Act (and other modern functional standards).

In local government the principal reason for the disposal of heritage assets is the lack of resources to maintain them. The survey found that this applied particularly when the condition of property had deteriorated and required a significant capital injection. An authority may have no real desire to dispose of a heritage property as a matter of principle, but simply not have the spare resources to justify refurbishment and other costs, even if it could then use the property or manage it for relevant public purposes. Only one authority surveyed specifically favoured the disposal of heritage assets rather than other assets (and explained this in terms of securing their heritage interest). Another authority, conversely, noted its preference to retain heritage assets, even surplus ones, and a few Asset Management Plans have been identified in which local authorities make significant financial commitments to investing in heritage assets rather than selling them. However, outside the scope of the survey, other authorities came to light which actively sought the disposal of heritage assets.

In 1999 the Department for Culture Media and Sport published *The Disposal of Historic Buildings: guidance note for Government departments and non-departmental public bodies* to promote good practice. This encourages Departments to try to avoid the need for disposal in the first place, this being the first of ten key points sympathetic to the best interests of historic buildings. The evidence from the survey is that this guidance is well-received and capable of being made to work effectively. There is therefore no significant inadequacy with heritage policy in central government. The enthusiasm with

which the guidance is applied is less clear, particularly in respect of retaining heritage assets, but failure to follow the generality of the advice currently appears accidental rather than systematic.

Best practice in the disposal of heritage assets by local government is encouraged principally by a section in the joint English Heritage, DCMS and ODPM publication *Managing local authority heritage assets: some guiding principles for decision-makers* (2003). This is similarly capable of implementation. However, there is much less familiarity with the advice in this guidance amongst local authority asset managers than there is with the parallel advice to Government Departments. About two thirds of respondents were unaware of it, suggesting a significant separation between the heritage and asset management functions in local government. Implementation of the guidance was variable, not surprisingly.

The survey of Government Departments produced little information on the impact on heritage assets arising from their disposal. However, a more detailed perspective was provided by Government agencies and the voluntary sector. Standards were found to have been improving over recent years, though difficulties remained. The exemplary policy approach in the Ministry of Defence was not always applied in practice at the local level, and there had in the past (including the recent past) been certain highly significant losses of major buildings and iconic features. Against this, there had also been major redevelopment schemes at significant military establishments which had secured heritage quality to great effect. By far the most serious and frequent problems had arisen from the sales of mental health institutions by NHS Estates, with a range of sites suffering appalling treatment as the vendor sought to maximise revenue with little or no care for heritage interests. Although their perspective on heritage began to be

addressed in the body's final years, this followed substantial damage. The Department for Constitutional Affairs is currently struggling with the impact of PFI in an effort to protect the heritage value of its portfolio of historic Courts.

The outcome of the disposal process had been successful from a heritage perspective in most of the cases for which information was provided by local authorities (only 30). Some authorities had taken steps (beyond reliance on the universally available planning and other legal powers) to protect the heritage merit of assets disposed of, for example insisting on repairs and maintenance, controlling subsequent uses, including reversion clauses, or requiring opening to the public. Ten of the named disposals into the private sector had included these. Whilst these results paint a generally highly beneficial picture of the disposal process (and only in one case was the property in a worse condition than it had been before disposal), the cases reported are almost certainly not accurately representative. A number of problematic cases were brought to the study's attention, notably in Northern Ireland.

The overall findings of the questionnaire survey and from official sources suggest a workmanlike approach by Government Departments to dealing with heritage asset disposals, especially in recent years, despite most having little inherent interest in heritage issues. The picture in local government was less uniform. The nature of the asset base appeared more varied, with many local authorities identifying heritage assets in their ownership which either had a negative value or cost more to manage than the income they generated, whereas no Government Department identified any asset in this condition. Most of the local authorities responding to the survey were actively seeking solutions to these difficulties, and many reported that they did or would discuss surplus heritage

assets with statutory agencies while some even fund-raised on behalf of assets in their care. However, there were two exceptions including one authority which indicated a particularly poor record of heritage asset management.

There is no formal opportunity to monitor the pattern of heritage asset disposals by local authorities, as the English Partnerships *Register of Surplus Public Sector Assets* does not extend to local government. Even in central government the Register appears to have been used simply as a working tool rather than for monitoring and evaluation. Furthermore there is no systematic record anywhere in the public sector of the outcome of the disposal process from a heritage perspective. The results from surveys of vendors are likely to overstate good practice at the expense of poor practice, so some reliance had to be placed on the information provided by heritage agencies and the voluntary sector.

The evidence on performance by Government Departments, noted above, was greatly assisted by English Heritage, English Nature and SAVE Britain's Heritage. However, the external information on local government activity was weak and patchy from all sources. A significant generic problem was nonetheless identified with the management and disposal of mansions in public parks. More generally, there was a lack of readily available information on which heritage assets were being presented for disposal or in prospect of this. There was a possibility that some were not being detected, and this was supported by reports of chance discoveries of worrying disposals, such as important library books found being dumped in skips. Although some heritage asset disposals may pass unnoticed, there is no indication that this is a pervasive problem. The loss or deterioration of chattels on disposal is more likely to be a problem than buildings and land, due to the smaller number

of expert and interested organisations able to identify them and intervene in the process. Indeed there is an undue reliance on a network of keenly interested individuals to establish the existence of disposal activity, especially in specialist sectors. This reliance is particularly pronounced in Wales.

There is no real safety net for ensuring the future of surplus heritage assets. In central government the bulk of the problem facing mental health institutions has passed, though the broader threat from the Private Finance Initiative is gathering pace. No Government Department or agency in the three countries studied perceived itself to have any moral obligation to act as an owner of last resort for heritage assets. Whilst valuable surplus assets can be sold on the market with little risk of loss or damage, economically unattractive properties pose more of a challenge. This particularly affects local government. These properties were unattractive to the market unless accompanied by financial assistance (the absence of which had usually caused the problem in the first place). As a result, local authorities often found themselves with deteriorating heritage assets which were becoming increasing liabilities. Whilst many tried to address this through investment, cases were also identified where either the deterioration was allowed to continue or an arrangement was reached which addressed the financial problem at the expense of some of the heritage interest in the property (e.g. through inappropriate building conversion). The English Heritage Buildings At Risk Register identifies numerous Grade I and II\* buildings which have deteriorated alarmingly, whether or not active steps are being taken to resolve their problems. Insufficiently active management plus deterioration of the fabric of property are key factors creating the circumstances where heritage assets become at risk of disposal and the possibility of inappropriate change.

## Prognosis

The two Government Departments which expect to continue disposing of heritage assets on any scale in future are the Department for Constitutional Affairs and, above all, the Ministry of Defence. MoD, having exceeded its targets for disposal receipts in the last seven years, expects to continue past trends with average receipts of around £220mpa for the next four years. These Departments are two which have demonstrated clear attention to heritage assets.

There is every likelihood that the recent pattern of heritage asset disposals by local authorities in England and Wales will continue, probably on much the same scale. Half the authorities responding to surveys had never disposed of a heritage asset: while allowing for those owning none, this still suggests a reservoir yet to be tapped (though over half the responding authorities had no immediate plans for such action). The number of authorities expecting to dispose of heritage assets in future was close to the number who had already done so (and both lists were dominated by the same authorities). Local authorities are at different stages in their experiences with heritage asset disposals, some completing the process while others are beginning to consider the possibilities. Furthermore, the types of heritage asset likely to be surplus mirrors the variety of recent disposals. The reasons identified for anticipating the disposal of heritage assets continued to be principally a lack of resources to tackle property in poor condition, though revenue-raising was expected to be more important than it had been recently.

In Northern Ireland, where local government is a distinctly smaller institutional activity, the Review of Public Administration anticipates reducing the number of local authorities from twenty six to seven. This seems likely to generate the redundancy

of numerous small town halls.

Proper attention to the heritage merit of heritage assets in the disposal process cannot be guaranteed. Heritage interests will need to be actively promoted, as they are neither the priority of asset managers nor reliably familiar to them. As policy guidance is broadly satisfactory, outcomes will depend principally on the effort applied to the implementation process. There is likely to be an ongoing requirement to train asset managers responsible for disposals, both in central and local government. English Heritage's Government Historic Estates Unit engages with the former, but there is no reliable means of intervening in the disposal practices of local authorities from a heritage perspective.

## Prescription

- Central and local government urgently need to value more highly the role of heritage in society, focusing on its opportunities and on its contribution to public life rather than emphasising its costs.
- Heritage issues should be much more strongly represented in property asset management obligations.
- Specific additional steps should be taken to improve heritage asset management in local government.
- The disposal of heritage assets by local government should be more rigorously monitored.
- The Private Finance Initiative should be structured to support viable uses of heritage assets rather than to undermine them.

- There should be a unified regime for quality assurance in the management and disposal of heritage assets by Government Departments.
- There should be a unified regime for quality assurance in the management and disposal of heritage assets by local authorities, led by the Audit Commission.
- Government advice by DCMS on *The Disposal of Historic Buildings: guidance note for Government departments and non-departmental public bodies* should be extended to cover also other kinds of heritage asset, particularly land and chattels.
- In Wales and Northern Ireland there are additional requirements for new advice to public sector bodies on the management and disposal of heritage assets from a heritage perspective, and then for its effective application. Heritage issues generally should be taken more seriously in both countries, as their practices identified for this study lag behind those in England.

## 1 · Purpose

**1.1** This is a study into the way in which public bodies, particularly local authorities and central Government, dispose of land, buildings and other assets of potential cultural and/or natural interest. The central objective is to identify the level of risk to our cultural and natural heritage from such disposals. The study aimed to investigate how significant parts of publicly-owned assets have been transferred out of public ownership.

**1.2** Items required to be covered by the study included:

- a summary of the current legal and policy framework, including the application of Treasury guidelines, the role of DCMS and DEFRA (and their agencies), and the application of best value in local government;
- a review of existing information available on disposals with a view to identifying current approaches, trends and categorising the assets involved;
- case studies of relevant examples illustrating the risk and opportunities involved;
- an analysis of likely future trends;
- drawing out any significant differences between England, Wales and Northern Ireland;
- a review of the issues and implications raised by current and future trends and the risks and opportunities for managing and safeguarding heritage assets for public benefit;
- recommendations for legal, policy and other reforms.

## 2 · Research method and information gathering

### Definitions

**2.1** The focus of this study is primarily on central government and local authorities. The assessment of disposals by public bodies has been taken to include, in central government, the Non-Departmental Public Bodies and agencies of the various Government Departments. Efforts to obtain information from these subsidiary bodies have been proportionate to the scale of their disposal activities. In local government the emphasis has been on local authorities acting as corporate bodies. In practice this has usually resulted in the omission of information from local education authorities, fire and police authorities and other locally-administered institutions.

**2.2** A broad understanding of the term ‘heritage assets’ has been taken for this study, extending well beyond buildings and wildlife sites recognised nationally for their heritage merit. The definition, together with an explanation of it as supplied to consultees, is included at Appendix 1.

### Geographical coverage

**2.3** The study covers England, Wales and Northern Ireland.

### Data collection from parties to the disposal process

**2.4** Public bodies decide which assets to acquire, retain and dispose of through their property departments (or equivalent). Those responsible for heritage assets may have an input into these procedures, but the starting point for assessment is

asset management rather than heritage interest. This study therefore aimed to engage principally with property managers responsible for handling heritage assets and their possible disposal. This section identifies those who were engaged in the information-gathering process and the scale of the responses received.

### Government Departments

**2.5** An individual assessment was made of heritage asset disposals by each Government Department. In each case, study was made of the Department’s entry in the National Asset Register 2001, the 2002 Departmental Investment Strategy (DIS) and any more recent DIS available. This established the broad outline of recent and immediately anticipated asset disposals for both the Department and the Non-Departmental Public Bodies for which it is responsible. The individual in each Department responsible for asset disposals was identified and brief telephone discussions held with them. Each was sent a questionnaire survey (unless they had stated that neither had they disposed of heritage assets recently nor did they expect to do so in the future – or there were too few to justify a questionnaire) (see Appendix 3C). Further telephone discussions were held with most of the individuals identified (or those completing the questionnaires).

**2.6** At the time of the survey there were eighteen Government Departments responsible for the preparation of Departmental Investment Strategies and other asset management activity. Our study also included the Crown Estate and the Welsh Assembly Government. Due to reorganisations, the list varied slightly from the Departments which had originally prepared DISs in 2002, though the consequences were readily absorbed by the study. The questionnaires were handled as follows:

- by agreement, no questionnaires were sent to five Departments (Foreign & Commonwealth Office, Department for International Development, HM Treasury, Cabinet Office, and HM Revenue and Customs);
- no responses to questionnaires were received from three Departments despite attempts to elicit them (Department for Transport, Home Office, and Department for Culture, Media and Sport);
- nil returns were received from three Departments (Department of Trade and Industry, Crown Estate<sup>1</sup>, and the Welsh Assembly Government), none of whom completed Part 2 of the questionnaire tackling Departments' approaches to heritage assets and their disposal;
- letters and other information but not fully completed questionnaires were received from three Departments (Department for Work and Pensions, Office of the Deputy Prime Minister\*, and Ministry of Defence<sup>2</sup>);
- questionnaires were completed by six Departments (Department for Constitutional Affairs, Department for Environment Food and Rural Affairs, Department for Education and Skills\*, Crown Prosecution Service\*, Northern Ireland Office, and Department for Health<sup>3</sup>).

\* No disposals of heritage assets in recent years.

**2.7** Although there were some disappointments in the responses, the volume of heritage assets disposed of was clearly heavily skewed to the Ministry of Defence and Department of Health. The most serious deficiency was the lack of response from the Department for Transport, which the National Asset Register shows to have been involved in substantial – albeit declining – disposals of assets through the Highways Agency, in large measure deriving from a decision not to proceed with an expanded road construction programme.

### *Local authorities*

**2.8** The primary means of seeking information from local authorities was by questionnaire survey, sent to Property Managers. Questionnaires were sent to:

- all 22 local authorities in Wales and all 26 local authorities in Northern Ireland;
- a sample of local authorities in England anticipated to be best able to explain their pattern of disposals (see Appendix 3A); and
- a sample of local authorities in England considered likely to be generating the most problematic cases of surplus heritage assets (see Appendix 3A).

**2.9** The English authorities anticipated to be best able to explain their pattern of disposals were assumed to be those which achieved an 'Excellent' rating from the Audit Commission on their Comprehensive Performance Assessment (CPA), ('excellent' being the top rating, above 'performing well', 'adequate' and 'poor'). There were 69 'excellent' authorities in the year 2004–05, while 11 authorities were shortlisted for 'Beacon' status in asset management in 2005–06 (see Appendix 2). This made a total of 75 authorities, due to 5 appearing in both lists. Performance in their approach to asset management is one of the issues which counts towards a local authority's CPA rating: an overall 'Excellent' rating could only be achieved if an authority achieved at least an 'adequate' rating on their approach to asset management (this was raised in 2005 to a requirement for at least a 'performing well' rating on a wider 'use of resources' block of indicators). The assessment system now provides incentives for investment and disposal decisions to be based on whole life costing, and for proper provision and action for repair and maintenance. These encourage the proper maintenance of heritage assets in local

government care.

**2.10** The English authorities considered likely to be generating the most problematic cases of surplus heritage assets were all authorities in whose areas are to be found Grade I or Grade II\* listed buildings on the Buildings At Risk (BAR) register. This is one of the few databases available which is relevant to heritage and distinguishes local authority owners. Even so, this database does have weaknesses<sup>4</sup>. All 123 local authorities recorded on

the BAR register as having local authority-owned land in their areas were circulated with a questionnaire. As 24 of these were also covered by questionnaires to CPA 'Excellent' and Beacon authorities<sup>5</sup>, the total number of English local authorities sampled was 174.

**2.11** Table 1 shows that response rates to the questionnaires were generally poor, though the rate of response was reasonably consistent by authority type within England:

*Table 1: Local authority questionnaires and responses*

Category of local authority	No. of authorities consulted	LAs responding to the questionnaire	% response rate
CPA/Beacon (not BAR)	51	8	16
CPA/Beacon and BAR	24	3	11
BAR (not CPA/Beacon)	99	14	14
Total CPA/Beacon	75	11	15
Total BAR	123	17	14
England	174	25	14
Wales	22	2	9
England & Wales	196	27	14
Northern Ireland	26	7	27
England, Wales and Northern Ireland	222	34	15

**Notes:** An authority was counted as responding if it replied; there were numerous 'nil returns' and a small number who indicated that a proper response would be impractical.

**2.12** Two further steps were taken to obtain information from local authorities:

(i) A short set of questions (see Appendix 3B) was sent by e-mail to Asset Managers in all local authorities in England and Wales via the network operated by the Institute for Public Finance<sup>6</sup>. This elicited a further 35 responses (34 from England and 1 from Wales), 24 of which were from authorities not covered by any of the initial mailings. Of the 11 who had previously been sent

questionnaires, 6 had not responded on the first occasion.

(ii) The websites of all non-responding authorities were viewed with the aim of obtaining their Asset Management Plans and examining these for information on heritage asset disposals;

**2.13** Table 2 shows that about one third of non-responding local authorities had websites on which full Asset Management Plans had been placed.

*Table 2: Asset Management Plans on local authority websites*

Category of local authority	Non-responding LAs without full AMP on website	Non-responding LAs with full AMP on website	% with full AMP on website
CPA/Beacon (not BAR)	25	18	42
CPA/Beacon and BAR	9	12	57
BAR (not CPA/Beacon)	65	20	24
Total CPA/Beacon	34	30	47
Total BAR	74	32	30
England	99	50	34
Wales	19	1	5
England & Wales	118	51	30

**Notes:** Six authorities placed on their websites Asset Management Plans just for their education services and one placed a summary only: these were not counted as 'full AMPs'; however, one authority with an AMP for all its land and buildings but not its streets and chattels was counted as placing a full AMP on its website.

### 2.14 Main findings for England:

- about one in three of those authorities which did not respond to a questionnaire placed their full Asset Management Plan on their website (fewer than one in three if Wales' figures are included);
- in England, Beacon Authorities and authorities rated 'Excellent' in the Comprehensive Performance Assessment were more likely to place their AMPs on their websites than were authorities with Buildings At Risk in their areas (42% compared with 24%, neglecting authorities with both characteristics). The figures rise to 47% and 30% respectively if authorities falling into both categories are included.

### *Statutory heritage agencies*

**2.15** The Government and the devolved administrations have given much practical responsibility for nurturing the UK's heritage to arm's length agencies set up for the purpose. These agencies provide a number of functions relevant to this study, notably:

- advising Government Departments and local authorities on the exercise of their powers in relation to heritage;
- providing guidance;
- providing direct heritage services themselves; and
- acting in an exemplary manner in relation to heritage under their control.

**2.16** In England the primary agencies involved are English Heritage (in relation to historic buildings, archaeology and the cultural heritage), and English Nature (in relation to wildlife and geological diversity). In Wales the equivalent functions of English Nature are carried out by the Countryside Council for Wales. The built environment and

cultural heritage in Wales are overseen by Cadw, which was absorbed into the Welsh Assembly Government during the course of the study and is therefore now part of government rather than an agency. In Northern Ireland the tasks are carried out jointly by the Environment and Heritage Service, as part of the government function within the Department of the Environment. In England and Wales, the Environment Agency is responsible for the protection of the water environment, pollution control and a range of other functions capable of affecting the way that public bodies manage and dispose of heritage assets. In addition, the activities of the Forestry Commission and English Partnerships have some bearing on the purposes of this study, though they have a lesser role advising other bodies.

**2.17** All these heritage agencies were approached for their contributions to understanding heritage asset disposals. Senior individuals in each organisation were identified and wherever possible contacted by telephone. These discussions had some bearing on the next steps taken. The approaches in each case were then made broadly as follows:

- two questionnaires were sent to both the Countryside Council for Wales and the Environment Agency, one each in their capacities as advisers on heritage issues and one each as owners of heritage property;
- two questionnaires were sent to English Heritage, to reflect their administrative arrangements, asking separately about their experiences with central government and with local government;
- questionnaires were sent to English Nature (see Appendix 3D) and the Environment and Heritage Service in their capacities as advisers on heritage issues;
- telephone discussions were held with key individuals in Cadw, the Forestry Commission,

English Partnerships (who are responsible for administering the *Register of Surplus Public Sector Assets*), and the Office of Government Commerce (which works across departments to secure efficiency savings in the use of Government property).

**2.18** The expectation was that the questionnaires would be circulated to those with the knowledge to be able to supply the information requested, possibly with some collation centrally. Modest adjustments were subsequently made to the details of the information requested in some cases. In particular, the questionnaire to English Heritage regarding local government was revised and circulated in shortened form to each of English Heritage's regions.

**2.19** The intention had been to hold meetings with each body to whom questionnaires had been sent, to discuss further the information they provided. In practice a meeting was appropriate only with English Heritage's Government Historic Estates Unit (GHEU). In other cases, the information provided would not have justified a meeting, though further discussions were held by telephone in a number of cases.

### *Third party heritage bodies*

**2.20** In addition to eliciting information from public bodies, the study also set out to cross check the evidence by inviting contributions from independent parties. The risk was foreseen that examples of actual or potential heritage asset disposals of interest to the study would be missed by non-responses by public bodies. In particular approaches were made by questionnaire survey to the main third party heritage bodies. There are large numbers of special interest organisations in the voluntary sector which might be able to contribute their experiences.

**2.21** With the kind assistance of the bodies concerned, amongst whom overlapping membership in very limited, questionnaires were sent to the:

- 43 member-organisations of Wildlife & Countryside Link;
- 79 member-organisations of Heritage Link (see Appendix 3E);
- c.160 member Trusts of the Association of Building Preservation Trusts;

**2.22** Responses were received from:

- 3 Wildlife & Countryside Link members;
- 18 Heritage Link members (and two other bodies not in membership);
- 3 Building Preservation Trusts (excl. 2 in Scotland).

**2.23** Further approaches were made by telephone to seven major voluntary organisations which had not responded to the questionnaire but anticipated to have a direct interest in the study. This secured a little further information but no more questionnaire responses. In addition, information on cases was also supplied by some of The National Trust's regional offices.

**2.24** The information provided by voluntary organisations is for the most part reported at relevant points throughout this report. In addition, an overview of the sector's contribution is made in Chapter 7.

### **Case studies**

**2.25** The study has identified a wealth of possible case studies to illustrate the issues raised. These are presented throughout the text, many of them in boxes. Each case has been reported only briefly, allowing more cases to be presented within the space available in this report.

## 3 · Government departments

**3.1** This chapter sets out the evidence obtained on asset disposals by Government Departments, their Non-Departmental Public Bodies and agencies, and comments on it. Information was obtained from the Government Departments themselves, statutory heritage agencies, the voluntary sector and other available information sources. The chapter explains the context within which asset disposals arise and the procedures to be followed, and the variations relevant to heritage assets. Information is presented as it applies to English Government Departments and agencies and to those bodies whose activities extend beyond England into one or more devolved administrations. Departments, agencies and voluntary bodies which operate exclusively in Wales or in Northern Ireland are considered in Chapters 5 and 6 respectively.

### Strategic objectives and Treasury guidelines

#### *Efficient asset management in the public sector*

**3.2** The context in which public bodies may dispose of heritage assets is shaped fundamentally by legislation and Government policy on asset management. Heritage issues are relevant to the details, but are not the driving force which explains the pattern of heritage asset disposals.

**3.3** The public expenditure planning and control regime has been changed significantly since 1997. A key reform has been the introduction of resource accounting and budgeting. Legislation on resource accounting in 2000 required Departments to prepare their accounts consistent with UK generally accepted accounting practice: this requires key financial information to be presented on a comparable basis to the private sector. One aspect of this, since the 2002 Spending Review, has been

for Government Departments' budgets to include charges for depreciation (the costs of using assets) and the cost of capital charge (the cost of holding assets, which is the opportunity cost of tying capital into a particular asset). This means that budgets now reflect the full economic cost of departmental activity, and the cost of holding capital assets is much more transparent than before. This gives Departments greater incentives to manage their assets and liabilities more effectively. The change in approach can be expected to encourage the disposal of properties whose current uses are not 'paying their way', freeing up resources for other priorities. Land and buildings comprise 43% of public sector assets, which are a major part of those suitable for disposal. (Civil engineering works comprise a further 47% of public sector assets, followed by 3% in the radio spectrum).

**3.4** The Treasury encourages disposals by allowing departments to retain the receipts from the sale of fixed assets (up to a generous limit). The Treasury also has a major role in accounting for assets in local government, where the value of assets exceeds those of central Government and public corporations combined. The role of local authority Asset Management Plans in particular is set out in Chapter 4. An additional spur to the disposal of assets in London and the South East has been the Government's promotion of the relocation of its Departments' activities to other regions, in the interests of reducing ongoing costs, achieving efficiencies and encouraging regional investment. A report by Sir Michael Lyons on public sector relocation published in March 2004 *Well placed to deliver? Shaping the pattern of Government service* identified more than 27,000 posts which could be transferred, freeing up considerable property assets in London and the South East.

**3.5** Each Government Department and its associated agencies and Non Departmental Public

Bodies (NDPBs) is responsible for managing its land, buildings and other assets, and maintaining its own asset register. In 1997 a detailed list of all the assets owned by each departmental group was published in the National Asset Register. This was revised in 2001 and included a value for each asset. At the Department level, Departmental Investment Strategies are a public statement of departmental plans to allocate capital budgets to meet objectives and Public Service Agreement targets, and how they will achieve value for money in delivering new investment. The Government's White Paper 2002 *Spending Review: Departmental Investment Strategies: A Summary* (December 2002), Cm 5674 comments: "One of the aims of the DIS is to set out how each department utilises its assets in the most effective way possible, and to help departments to identify where assets are no longer being used and can be sold. Each DIS sets out the department's assets, their condition and reports on progress on asset utilisation and disposals" (paragraph 4.3). The Strategies were first published by Departments in April 1999, updated in November 2000 and revised in 2002 for the period 2003/04 - 2005/06.

### **Revenue raising from central government disposals**

**3.6** A highly significant element of the quest for efficiency in public sector asset management is the prospect of generating capital receipts from the disposal of surplus assets. The public sector is under considerable pressure to generate disposals as a result of its asset management efforts. The Departmental Investment Strategy framework has been used to set targets for disposals. For example, this has included a target for the Ministry of Defence to dispose of assets worth £700 million by March 2002 (which it comfortably exceeded by generating receipts of £810 million by that date), and a further £575 million by 2006.

**3.7** The disposal imperative is particularly clear from the target set by the Chancellor in the 2004 Spending Review for the disposal of £30 billion-worth of public assets by 2010 (nearly 5% of the asset base). A separate report by Sir Michael Lyons *Towards better management of public sector assets* (December 2004) viewed this as "stretching", "challenging" and "requires the public sector to raise its game to meet it" (paragraph 5.10): there was a prospect of continuing annual disposals valued at £1bn from central government and £4bn from local government (£1.5bn excluding the transfer of public housing), but in the context of receipts from housing being likely to decline and a range of assets having already been sold.

**3.8** Sir Michael Lyons' December 2004 report highlighted the distribution of public sector assets, which in central government are heavily skewed towards defence, transport, the National Health Service and the devolved administrations. He suggested some likely priorities for disposal to help achieve the Government's target for revenue generation (paragraph 1.37), including some with clear heritage implications:

- Defence – Strategic changes underfoot, including the Ministry of Defence's reviews of core sites, service HQs and training needs, suggest significant opportunities to dispose of assets, going beyond the existing target of £560 million by 2007/08 ...;
- The National Health Service – A recent exercise identified £800 million worth of surplus hospital estate that has now been transferred to English Partnerships for disposal. The NHS is highly devolved and the challenge for the centre is to take a strategic approach to identifying and disposing of subsequent tranches of assets that will become surplus as a result of service changes;
- Northern Ireland – Partly a legacy of the Troubles, the public sector occupies a much

bigger part of the economy in Northern Ireland than in other parts of the UK. There are considerable opportunities to dispose of assets and this will be a matter for the devolved administration when it returns;

- Justice – courts, prisons and police services account for a significant proportion of public assets. Current and planned service changes offer opportunities for reconfiguring the use of land and buildings.

### *Procedures for disposing of central government assets*

**3.9** Accounting procedures for Government Departments are set out in the Treasury's 'Resource Accounting Manual' *Government Accounting 2000* (with four subsequent updates). This addresses, amongst other things, the management of assets, the disposal of assets, and gifts (chapters 23 to 25 of the manual). Departments are required to co-operate to ensure that property decisions secure the best advantage for the Exchequer overall. Sharing offices can release other premises, for example.

**3.10** So far as disposal is concerned, a procedure is established by which Departments must place the assets they wish to dispose of on English Partnerships' *Register of Surplus Public Sector Assets*. This provides a period of 40 days in which another department, Non-Departmental Public Body or NHS Trust can express interest in acquiring the property, before it is offered on the open market. Both transfers within Government and external sales are overseen by procedures laid down by the Office of Government Commerce (OGC), an arm of the Treasury dedicated to achieving best value for money in commercial activities across the whole of Government. OGC maintains an up-to-date database of all central government property and future accommodation requirements. The impact of this Register is considered in paragraphs 3.75–77.

**3.11** The Government's financial objective on disposal of assets is to secure the 'best consideration reasonably obtainable', which is essentially the market value but taking into account the capital value of any voluntary conditions imposed by the vendor (e.g. a pre-emption clause allowing the vendor to repurchase on specified terms if the purchaser decides to sell). There are detailed Treasury rules shaping the financial aspects of transfer and sale of assets, but there are special arrangements to deal with specific circumstances, notably:

- the return of compulsorily acquired land to former owners (the Crichton Down rules);
- disposal of assets of non-departmental bodies wholly or partly funded by government grants;
- sales of property at less than market value where there are other considerations at stake (with parallel stipulations for local authorities in the *General Disposal Consent (England) 2003*);
- transfer of an asset at current market value to another Government Department, NDPB or agency (rather than sale on the open market) in order to use an asset to deliver public services;
- transfers in relation to the Private Finance Initiative; and
- disposal of historic buildings.

The last three of these have particular relevance to this study. Transfers between Departments are arranged through English Partnerships: see paragraph 3.72. The Private Finance Initiative is discussed in the next section, and the special arrangements for the disposal of historic buildings is the section following.

### **The Private Finance Initiative**

**3.12** The Government has engaged actively in Public Private Partnerships to bring private finance into the provision of public service infrastructure.

This aims to help make public money go further and tackle the backlog of under-investment faster than would otherwise be the case. The Private Finance Initiative (PFI) has formed an important part of this arrangement, and support for it currently comprises about 10–15% of public sector investment. PFI is best known for drawing in private money to fund the provision of new health facilities, schools and transport projects on a long-term basis. However, it is also used to provide the public sector with significant cash injections, achieved by the disposal of public assets often followed by lease-back. For example, government offices are often held this way: they have been sold to PFI businesses, and departments and agencies subsequently rent office space from these companies (probably but not necessarily in the same offices as before the disposal). The majority of the government's office estate is now either leasehold or contracted under PFI<sup>7</sup>. Furthermore, PFI schemes can take a hybrid form, in which a contract to provide services over a period of years can be met, as the private firm sees fit within the terms of the contract, by a combination of the use of existing assets (for which it takes responsibility) and the provision of new ones. This is now the principal arrangement for the provision of Court services, for instance.

### ***Sale and lease-back***

**3.13** Disposals of this kind normally involve straightforward transactions, but where heritage buildings are concerned there are risks to the heritage which need to be addressed. Unless special care is taken, the disposal of property under PFI schemes puts such property outside the scope of Government policy which applies to the management of historic buildings in the public sector (see paragraphs 3.26–27 and 4.17–18). The private sector interest in historic buildings is then regulated only through general legislation (such as

the Listed Buildings Act 1990) and policy (such as Planning Policy Guidance note 15 *Planning and the Historic Environment* (1994)), which are less demanding.

**3.14** The Department for Culture, Media and Sport publication on *The Disposal of Historic Buildings: guidance note for Government departments and non-departmental public bodies* (June 1999) addresses the issue, reminding Departments that it may be appropriate to specify at the tender stage that existing accommodation must be refurbished as part of the scheme and that the full cost of securing the future of vacated historic buildings is taken into account. The guidance advises:

“In a PFI project, the terms of the contract should be clear on the supplier's use of the historic building during the life of the project. In particular, levels of care and maintenance should be clearly identified. This is particularly important where the supplier is entitled to develop/ redevelop, or even dispose of, the historic building. A comparison of the options for the overall responsibility (i.e. public or private sector) for the condition of the historic building is essential” (paragraph 4.4).

**3.15** Despite this and other sound advice, Government Departments will be caught between the competing pressures to protect the heritage under their control and to maximise revenues from disposals into PFI schemes. As noted above, heritage interests are subsidiary in these circumstances, as asset management is driven by financial interests and revenue maximisation from disposals is a targeted Treasury objective.

**3.16** In sale and lease-back cases, the subsequent control of asset disposals with heritage interests in mind can be difficult. Departments which have sold their estates (or at least their office buildings) into PFI schemes include the following:

- Department for Culture Media and Sport. The four of its properties with heritage interest are on 175 year leases to the PFI group. While DCMS remains in occupation of them, the PFI company is required to maintain them in good condition, but that obligation passes if DCMS leaves.
- Department for Work and Pensions. This 20 year contract on the whole estate was arranged by the former Department of Social Security in 1998 and covered 16% of the entire civil estate. Incentives for disposal are built into the scheme. The Department made clear to this study that it is endeavouring to follow DCMS guidance, and has identified all its properties of heritage interest. The PFI company has the freedom to sell or let freehold properties vacated by DWP, but DWP is still aiming to ensure that heritage value is (somehow) taken into account in its overall Estate Strategy.
- HM Treasury, Inland Revenue, HM Customs & Excise and the Valuation Office Agency (as they were called at the time) have all sold their land and buildings into PFI schemes, though their occupancy of heritage assets is minimal.

**3.17** Sale and lease-back PFI schemes introduce a significant new risk to heritage assets. Government Departments have the power to insist on high standards of treatment of heritage property under PFI contracts, and are encouraged to do so by DCMS. However, it is difficult to believe that hard-pressed Government Departments, under much greater pressure to cut favourable financial deals than to protect heritage, will devote much attention to assets for which they used to be responsible. Difficulties are less likely to arise if Departments remain in occupation of property, but when property leaves Government hands it will not be subjected to the assessments which would have

been fully expected under conventional disposal. PFI can therefore inadvertently be a means of evading effective scrutiny of heritage asset disposals by the public sector. The exact terms of PFI contracts are likely to be scrutinised closely by all parties when heritage property is agreed to be surplus.

### *Longer term provision of property services*

**3.18** When the private sector takes responsibility for the provision of public services over a lengthy period of time, using the existing stock of property assets as the basis for delivering it, the priorities of the new managers are likely to differ from their Departmental predecessors. The terms of the PFI contract will dictate the contractor's room for manoeuvre on such matters as the construction and use of new property rather than the maintenance of existing property, and the concentration of services. Indeed, most consortia considering bidding for PFI schemes will only be interested if there are opportunities such as these to provide services on terms which are to their liking. Furthermore, contractors have the financial incentive to chip away at the details and interpretation of approved contracts and to cut corners.

**3.19** The service where these issues have the most significant impact on heritage appears to be Court services. In June 1996 the Government announced that all new courts thereafter would be built using PFI. To be attractive to the private sector, court services need to be provided for groups of courts (preferably in large bundles), not individual ones. The consequences were predictable. One of the first PFI schemes, for the Derbyshire Magistrates' Court Committee, had the effect of reducing from twelve to four the number of towns in which courts would continue to sit. This creates significant potential problems for historic courts, as some may become prematurely redundant either because they

are small (or more provincial) or because their refurbishment may not be attractive to the PFI contractor. A report by Richard Pollard *Silence in Court: the future of the UK's historic law courts* for SAVE Britain's Heritage (2004) explains the risk:

“Central to private sector service providers maximising their profits is their ability to keep the costs of operation and maintenance over the life of the contract to the lowest possible levels. With a fixed price contract, the last thing they want is unexpected and expensive problems to emerge in a building in twenty years time. At the same time (as the process was conceived) consortia are free to provide the services contracted in the manner they choose, providing it meets the terms and conditions of the contract. This inevitably means that in order to control building costs they prefer to build new buildings than modernise older ones, especially listed buildings which they rightly or wrongly perceive to have high and unpredictable refurbishment and running costs. PFI therefore threatens to bring a rapid end to the policy of modernising Georgian and Victorian Courts which at Manchester, Chester and other locations have been such an admirable success” (page 15).

**3.20** SAVE describes how the Department for Constitutional Affairs (and its predecessors) has worked hard to overcome the limitations of this process:

“Derby Shire Hall, a Grade 1 listed building with a seventeenth century core, has been the first major testing ground. When it became clear that the consortia bidding to provide a new Magistrates' Court for the town had no intention of refurbishing the Shire Hall if given the choice, the PFI bidding process was halted by the Courts Service, which introduced reconsideration of the Shire Hall as a mandatory variant of the contract, telling bidders that the Lord Chancellor's Department would increase grants to bridge the extra cost of this option ... The changed rules succeeded in forcing the bidders to include Shire Hall in their proposals, and the winning consortium has almost

completed work on a scheme that is creating a further ten courtrooms at the site – a scheme which, although sadly architecturally woeful, will at least bring the decaying building back into use” (pages 15-16).

**3.21** Despite this modest success, SAVE is clear that the outlook is uncomfortable. Not only may PFI projects not be viable, and Magistrates' Court Committees themselves see old buildings as problems rather than solutions, but

“the Court Service has had to expend a vast amount of effort, and secure special additional funding, to ensure that Derby is refurbished under PFI. It is difficult to imagine that it will be prepared, or able, to do the same for less outstanding listed buildings. Casualties should be expected” (page 16).

**3.22** A further issue arises in PFI contracts involving long term provision of services on existing Departmental property, where there may be scope to release surplus land. In these cases, disposals should be separated from the PFI arrangements (rather than be part of it) and treated as normal Departmental disposals. This is likely to have both operational and heritage benefits. The Department of Health report *Sold on Health* (2000) reported that “The allocation of land in PFI schemes has had an impact on the disposal programme in terms of delay, disposal opportunities foregone and increased holding costs”, and explained a number of reasons why “unless there is a commercial value in leaving unrelated land in a PFI transaction, the land should be disposed of by the NHS” (paragraph 28). The Ministry of Defence Departmental Investment Strategy 2004 describes some PFI schemes on its property, which appear to have followed this advice too. The Allenby/Connaught project for redevelopment of barracks in Aldershot and around Salisbury Plain involves a total investment exceeding £1 billion, making it one of the largest bond-financed deals

across Government. The project will enable the disposal of about £200 million-worth of land in the Aldershot area. A smaller 35 year PFI contract to redevelop the Colchester Garrison will allow about 134 hectares of MoD land to be disposed of. If there are heritage interests in property disposals such as these, then disposal by Government Departments will subject the procedure to the proper scrutiny of DCMS guidance, whereas disposals via PFI contractors are likely to be outside the scope of such policy and therefore put the heritage assets at greater risk.

### **Conclusion**

**3.23** Overall the Private Finance Initiative offers no apparent heritage benefits if heritage assets are to be disposed of. Contractors are understandably looking to minimise costs and risks, and are predisposed to view long term responsibilities for heritage assets as increasing these problems. PFI contracts which involve heritage assets must therefore be drawn up in ways which specifically protect the heritage. However, the effort of negotiating the PFI may well be an unwelcome burden on the public sector body, and the additional cost allowance may begin to erode the intended benefit of using PFI in the first place. This places a considerable onus on the public body entering into a PFI scheme to be fully 'heritage-aware' at the outset, and to foresee effectively the means by which PFI contractors might be able to escape any obligation to look after heritage assets. There is also a risk that heritage assets which become surplus under a PFI scheme will be disposed of without passing through the procedures which public bodies are expected to follow to secure the protection of heritage interests. Finally, none of these issues appear to be of any interest to the Treasury, which is driving public sector bodies to use PFI on a massive scale: there are 200 projects with a capital value of £26 billion in the pipeline

for the next five years. Perhaps because of this commitment, its recent publication *PFI: strengthening long-term partnerships* (March 2006) is a 121 page eulogy to PFI which fails to mention such topics as heritage, historic buildings or wildlife.

### **Special provision for the disposal of Government heritage assets**

#### ***Resource Accounting Manual***

**3.24** The Government's Resource Accounting Manual clarifies that "maximising receipts is not an overriding objective in the disposal of historic buildings. The aim in these cases should be to obtain the best return for the taxpayer that is consistent with government policies for the protection of historic buildings and areas" (*Government Accounting 2000*, section 24, Annex 2, paragraph 12). Other types of heritage assets are not mentioned.

**3.25** In effect, therefore, surplus property can be sold at less than market value if this will enable its heritage merit (or the heritage merit of its location) to be protected. Obligations on the sale of a property could take the form of covenants or planning agreements. Furthermore, having reduced the 'best consideration' in this way, heritage assets might also be sold for lower sums, i.e. with a gift element, if this was in the public interest. (Treasury approval is not needed for gifts under the value of £100,000 unless they are of an unusual nature or are not covered by a department's delegated authorities.)

#### ***DCMS guidance on 'the disposal of historic buildings'***

**3.26** In the Resource Accounting Manual, the Treasury specifically endorses the guidance issued

by the Department for Culture, Media and Sport on *The Disposal of Historic Buildings: guidance note for Government departments and non-departmental public bodies* (June 1999). This guidance encourages wide ranging good practice sympathetic to historic buildings, with ten key points. The first of these is an injunction to try to avoid disposal being necessary in the first place, offering a vote of confidence in Government departments retaining and looking after heritage assets themselves:

“before deciding to vacate a historic building, the feasibility of adaptation or alternative uses should be considered; most older buildings, with sensitive adaptation, can give long-term cost-effective service. In making financial assessments of alternative options, full account should be taken of the cost of responsible disposal, including any potential costs and risks incurred in maintaining and protecting the building if it becomes vacant.”

**3.27** The guidance clearly departs from supporting revenue maximisation in a number of ways which it identifies amongst its ten key points:

- methods of disposal other than open market sale or auction are encouraged “where these will increase the chances of securing appropriate ownership and use of historic buildings”;
- “sites containing groups of historic buildings should be marketed as a whole... in order to avoid isolating historic elements of the site and potential damage to their setting”;
- “Government policies for the protection of historic buildings and areas... are likely to limit opportunities for the realisation of development value”.

***‘Framework for Sustainable Development on the Government Estate’***

**3.28** The status of the guidance has risen since it

was issued in 1999. It has now been adopted as part of the Sustainable Development in Government initiative and is effectively mandatory. This is set out in Defra’s 2004 publication *Framework for Sustainable Development on the Government Estate: Part G – Estates Management and Construction*. Here, the Estates Management Strategy theme on ‘Disposal’ requires that

“Where property to be disposed of has a particular value, for example, in terms of wildlife, public access, cultural heritage, archaeology, or landscape, Departments should take steps, in consultation with the relevant statutory bodies, to ensure that the property can continue to be managed sensitively following disposal. Procedural guidelines such as *The Disposal of Historic Buildings* (DCMS, 1999), and other constraints such as Crichton Down (previous owner) rules, affect how sensitive Government property may be sold.”

**3.29** Target G1E requires that:

“A part of their Estates Management Strategies, Departments will ... include procedures to ensure that where disposal affects property of particular value (e.g. in terms of wildlife, public access, cultural heritage, archaeology, or landscape) arrangements are made to secure its sensitive management during and after its disposal. As a minimum Departments should satisfy themselves that a prospective purchaser has the capability and resources to manage the property appropriately and that their plans for its use would not be significantly detrimental to its value (as defined above). This may require a risk assessment in proportion to the size and type of asset (of what could happen to the assets following disposal). Appropriate requirements should be made contractual conditions of transfer to any third party.”

**3.30** Complying with *Framework for Sustainable Development on the Government Estate* has itself been made mandatory by the Office of Government Commerce. The *Common Minimum Standards for the*

*procurement of built environments in the public sector* (OGC, 2005) is stated as mandatory and includes the requirement that:

“The specification and design of all construction projects undertaken for central government departments and their agencies shall take due account of the contribution the project can make to achieving the departmental targets and Framework strategies developed from the *Framework for Sustainable Development on the Government Estate* (coordinated by Defra)” (paragraph 6.1).

**3.31** Regarding management, full guidance on the care of historic buildings in Government ownership in England, Wales and Northern Ireland is given in English Heritage’s *The Care of Historic Buildings and Ancient Monuments: Guidelines for Government Departments and Agencies* (1998) and for England, in DCMS’s *Protocol for the Care of the Government Historic Estate 2003* (June 2003). The latter is made mandatory by the *Common Minimum Standards for the procurement of built environments in the public sector* (OGC, 2005, paragraph 5.1). This asks each Government Department, through their ‘Green Minister’, to prepare biennial reports on the management of their heritage estates. Similarly English Heritage prepares a biennial review of conservation across the whole of the Government estate. These reports include commentary on assets disposed of. There can be little surprise that those Departments diligent in preparing biennial conservation reports, such as Defra and the Department for Constitutional Affairs, were those which provided the highest quality of information for the current study. The management of the Government’s heritage property assets is the responsibility of each Department, but all are assisted by English Heritage through its Government Historic Estates Unit (GHEU). The contribution of English Heritage is discussed in more detail in the section on statutory agencies, below.

### **Green Ministers’ Biodiversity Checklist**

**3.32** There is equivalent advice on wildlife heritage assets through the ‘Green Minister’ regime: *Making biodiversity happen across Government: Green Ministers’ Biodiversity Checklist* advises on a wide range of steps which Government Departments and their Non-Departmental Public Bodies and agencies are asked to take in managing their affairs sympathetically to wildlife. This notes that English Nature will work with Departments to help identify the biodiversity significance of their land and appropriate management regimes, and includes the following as one of eleven key requests:

“Aim to offer surplus biodiversity-rich land, where possible within Treasury rules, in the first instance to conservation bodies.”

**3.33** The advice clarifies that ‘biodiversity-rich land’ extends beyond nationally-designated sites to include non-statutory nature reserves managed by various public and private bodies and also sites designated locally for their importance for nature conservation.

### **Disposal activity**

**3.34** Analysis of Departmental Investment Strategies and responses to questionnaires show that disposals of heritage assets in recent years have been dominated by those from the Ministry of Defence and the Department of Health.

### **Ministry of Defence**

**3.35** The Ministry of Defence is responsible for about 650 listed buildings and over 1000 scheduled ancient monuments. It manages such a large portfolio of assets, occupying over 1% of the landmass of the UK, that it has issued a range of toolkits to explain and guide its procedures,

including:

- Stewardship Report on the Defence Estate (annual);
- In Trust and On Trust: The Strategy for the Defence Estate;
- Historic Buildings Conservation Manual for the Historic Environment on the Defence Estate;
- Defence Estates Guide;
- Business Management System;
- Appraisal Handbook for Sustainability and the Environment;
- Defence Lands Handbook (Joint Services Publication).

**3.36** This impressive range of statements is supported by Declarations of Intent signed with the national wildlife agencies (English Nature, Countryside Council for Wales and Scottish Natural Heritage). These provide for MoD to seek to offer Sites of Special Scientific Interest land for disposal to a nominated conservation body at market value (where this does not conflict with other Treasury rules). Revised arrangements with English Nature since August 2004 extend the commitment to other biodiversity-rich land, and agree that if neither English Nature nor another conservation body can acquire the land, the MoD should sell to a third party with a management plan in place agreed with English Nature. There is a small staff involved in promoting heritage issues within the structures in MoD for asset disposals. MoD is clear that disposals take place in line with Treasury and DCMS Guidelines (i.e. the Treasury's Resource Accounting Manual and DCMS's *The Disposal of Historic Buildings: guidance note for Government departments and non-departmental public bodies* [June 1999]).

**3.37** Individual disposals are listed in various documents, not reproduced here, demonstrating the scale of disposal activity with which MoD is

involved. For example, the National Asset Register 2001 lists individual properties disposed of in 1998/99 and 1999/2000. Table 3 shows this is ongoing work.

*Table 3: Gross cash receipts to the Ministry of Defence from asset sales*

Year	Receipts (£m)
1998/1999	158
1999/2000	288
2000/2001	225
2001/2002	185
2002/2003	279
2003/2004	207
2004/2005	212

Source: *The Stewardship Report on the Defence Estate 2005*, MoD

**3.38** The depth of the MoD's disposal activity is illustrated by its entries in the National Asset Register in 2001. Here MoD identified £168m-worth of land and property for sale including a 'various' heading for properties individually for disposal but valued at under £90,000: there were so many of these that they had a combined value of over £15m.

**3.39** In June 2000 the Ministry of Defence published a major report on the future of the Defence Estate *In Trust and On Trust*. The impact of this policy statement is now evident. It included twelve strategic objectives of which three are particularly relevant to this study:

- (6) "To maximise net receipts from any estate disposals";
- (7) "To achieve rationalisation and consolidation of the estate, wherever consistent with operational needs"; and

(8) “To take appropriate account of environmental, public access, social, planning and heritage factors in managing the estate and the use we make of it.”

**3.40** The report noted that MoD had disposed of over 6,000 hectares of land (for about £800m) between 1995 and 2000. However, although the size of the armed forces would continue to decline, the withdrawal from overseas garrisons would have the effect that there would be no significant further releases of land from the rural estate. However, there would continue to be disposal of smaller properties and more of the ‘built’ estate, following the Strategic Defence Review in 1998 which had identified opportunities for a more corporate approach to the use of the Defence Estate. The main consequence would be the focusing of activity on a smaller number of larger sites. The Departmental Investment Strategy 2004 explained further how this would have a series of consequences for the pattern of property ownership by MoD:

“Future disposals will depend increasingly on units and establishments rationalising onto new sites in line with the developing core sites policy. A phased rationalisation programme from 2002–03 to 2010–11 is being developed to take this forward. This will:

- enable MoD to move towards an estate fit for purpose and of the right size and quality to deliver defence outputs;
- facilitate a more equitable spread of the MoD ‘footprint’ across the United Kingdom through the migration of units from the south east to the north and west, which will assist recruitment and retention and release valuable property;
- support wider Government policies for the use of brownfield sites for new civilian and commercial development.”

**3.41** The expectation is that disposals will continue on a large scale. Targets for disposal receipts, which have been exceeded for at least the last seven years, are set to average around £220m annually for the next four years.

**3.42** The Ministry of Defence has also presented, in *The Stewardship Report on the Defence Estate 2005*, the uses to which land disposed of has been put, as Table 4 shows.

**3.43** *In Trust and On Trust* sets out MoD’s approach to the disposal (and acquisition) of sensitive property. Its aim is that “MoD aspires to dispose of, or acquire, property in a manner that safeguards any special value in relation to wildlife, cultural heritage, access or landscape conservation.” Six objectives are presented (see Box 1). MoD’s performance will be measured by regularly asking the Statutory bodies to assess its record of selling or acquiring sites in a sensitive manner.

**3.44** As at August 2005, MoD had 21 entries on the English Heritage Buildings At Risk Register. MoD has completed the first phase of an audit of BARs on the estate, which identifies the reasons and issues for their classification as ‘at risk’. The status and current condition of each BAR has been clarified, and the second phase of the audit, providing detailed action plans for each BAR, is under way. A statement of significance and an assessment of remedial work costs needed to remove sites from the register are also being provided.

### *Department of Health*

**3.45** The Department of Health itself holds only a modest amount of property. The bulk of assets are held by NHS Trusts, much of it in operational use. Surplus NHS property has in recent years been passed to NHS Estates for disposal, technically

Table 4: Primary development use at point of disposal 1998-2005

Use (hectares)	98/01	01/02	02/03	03/04	04/05
Agricultural	487	171	3	202	751
Housing	732	376	766	199	101
Industrial	973	183	61	10	7
Retail	32	1	0.7	219	0
Aviation	367	288	0	0	0
Nature Reserve	466	84	0	34	0
Return to Green Belt	0	0	0	11	0
Leisure/Recreation	270	376	1	0	7
Mixed Use	247	167	78	0	386
Office	140	80	231	0	60
Other	96	111	3	139	74

owned by the Secretary of State for Health and called the 'retained estate'. A Department of Health report in 2000 *Sold on Health: Modernising procurement, operation and disposal of the NHS estate* focused heavily on disposal issues. It reported that £1.5 billion had been realised from property disposals in the previous four years, and that further assets already identified as surplus were valued at a further £900m. It recommended a more corporate approach to disposals, all Trusts having local estate strategies, and consideration of a one-off sale of the surplus estate through a Public Private Partnership.

**3.46** The most extensive type of asset disposed of has been former mental health institutions (which had become surplus following changes in policy on mental health care), many of them in relatively

isolated locations considered unsuitable for modern healthcare. The vast majority have been sold to the private sector at open market value, principally for residential redevelopment. One hospital site was identified as having been sold to Derby University (for less than best consideration). 96 surplus NHS sites were transferred to English Partnerships in 2005: these will be released into the market once they have been assessed and planning briefs provided where appropriate.

**3.47** Guidance for NHS Trusts on the handling of disposals in relation to heritage issues was first published jointly by the NHS Executive, NHS Estates and English Heritage in 1995 as *Historic Buildings and the Health Service*. This was a practical guide for all levels of NHS management as well as

### Box 1 · MoD objectives for the disposal and acquisition of sensitive property

1. We will agree with the Statutory Bodies and local planning authorities which land would be regarded as sensitive if sold (in addition to that land within National Parks, Areas of Outstanding Natural Beauty, or having other designated status).
2. We will provide advance notice of any intended disposals (or acquisitions) to Statutory Bodies and local planning authorities of property regarded as sensitive.
3. We will discuss with the Statutory Bodies and other stakeholders, where appropriate, how the property might be sold to safeguard wildlife, landscape, cultural heritage, access and recreational opportunities. Advice will be sought as to which bodies might purchase the property and safeguard its special value.
4. We will ensure that property continues to be managed in a sensitive manner during the disposal process.
5. We will ensure that the purchaser is aware of any statutory designations and will pass on any records that we have maintained.
6. We will ensure that our approach to the acquisition and subsequent management of any sensitive land takes into proper account the views of the appropriate Statutory Bodies.

local authorities, developers, architects and other professionals. It was drafted by a Historic Hospitals Working Group which set out to achieve partnership and dialogue between English Heritage and NHS Estates.

**3.48** Whilst the dialogue and guidance had some benefit, there is clear evidence that some surplus hospitals were treated badly in heritage terms and that there was by no means always a shared perspective on the objectives of disposal. Between 1987 and 1995 SAVE Britain's Heritage published four reports drawing attention to the problems facing redundant hospitals. The last of these, *Mind over Matter: a study of the country's threatened mental asylums* (SAVE, 1995) catalogued the enormous scale of high quality buildings at risk and the

unsympathetic attitudes to be found amongst participants in the disposal process. Its Introduction, by Marcus Binney, concluded:

“Up till now there has been a general presumption in the NHS and among many planning authorities that the best solution for an asylum site is to demolish all the buildings as quickly as possible and create as much land as possible for housing developments or supermarkets. This ignores the fact that many of the asylum buildings are very suitable for conversion and equally ignores the wonderful marriage of buildings and landscape ...

The worst scenario is that NHS regions will simply continue to try and clear as many buildings as possible and obtain planning permission for the maximum amount of new build, leaving whole buildings marooned on a pocket

handkerchief of land. This must stop forthwith ...

At stake, are a series of the largest most remarkable and little-known public buildings in England built at great expense and set in superb landscape grounds which are often now in the full splendour of maturity. The quality of these buildings is the greater as so many were the subject of architectural competitions.

Yet at present too many are at the mercy of agents and planning consultants who, in flagrant breach of the latest government guidelines, often insist that the buildings must be demolished and sites broken up, brushing off approaches from experienced developers and architects with imaginative and viable proposals of alternative use which will be of great benefit in local communities.”

**3.49** Progress in appreciating these heritage assets was slow. Despite all the SAVE reports and the guidance in *Historic Buildings and the Health Service*, some sites still received appalling treatment (see Boxes 2 and 3). In these cases the original buildings were viewed as liabilities and development allowed around the grounds, maximising profit without regard to the heritage interest of the site as a whole. Particular problems have arisen when the site has been considered in parcels rather than as a whole (Boxes 3 and 4). Heritage issues did not feature strongly in the Department of Health’s approach to disposal: its report in 2000 *Sold on Health* devoted much of its section on ‘Contributions to Wider Government’ to lamenting the delays, lost income and incurred planning obligations caused to the NHS by the need to consider wider interests through its requirement for planning permissions. It advocated changes to the planning system so that it was more sympathetic to the interests of the NHS. Even allowing for the shortcomings of the planning system identified by Marcus Binney, with this perspective it is not altogether surprising that the planning system was frustrating many NHS schemes. The report identified it as delaying the

marketing of 59 out of 119 properties for over two years, stalling £98.2m of value out of a total of £126.5m. However the report did note that greater value could be secured for the NHS through more active engagement with other interested parties on the many issues raised by proposals for new uses for surplus property.

**3.50** These cases provide clear evidence of Treasury guidelines on finance taking precedence over DCMS guidance on the disposal of heritage assets. They demonstrate the concerns raised by SAVE Britain’s Heritage, and illustrate how weak bilateral agreements on heritage interests can be when one party has clearly failed to ensure the transformation in attitudes needed for them to work.

**3.51** A further report from NHS Estates in 2001, *Estatecode: essential guidance on estates and facilities management*, also contained a short section on the disposal of surplus historic sites. Key good practice points it offers on the disposal process are<sup>8</sup>:

- the use of planning briefs that are shaped by extensive public consultation;
- public consultation and participation in the planning process;
- the use of conservation plans which examine the significance of sites in terms of their history, architecture, archaeology, designed landscape and natural environment;
- planning disposals to ensure that a future for the site has been secured before the buildings are vacated;
- an holistic approach to sites, particularly hospitals in designed landscapes;
- the use of planning agreements to ensure that heritage assets are secured and repaired to an agreed standard before completion of any enabling development; and
- adopting innovative methods of sale, such as joint ventures.

**3.52** The National Audit Office (NAO) issued a report in March 2002 on *The Management of Surplus Property by Trusts in the NHS in England* which examined the impact of *Sold on Health* and considered wider issues. On the sale of heritage property it found that there had been 81 disposals of listed buildings or property in conservation areas and the sale of five ancient monuments between 1997–1998 and 1999–2000. The NAO indicated that much seemed to have been learnt from a complex and controversial case involving a public inquiry into the proposed conversion to residential use of the historic Claybury Hospital at Chigwell in Essex. The 70-day public inquiry in 1998, which resulted in development proposals being dismissed and the site being sold without planning consent, was an experience which all parties had found frustrating and wasteful. By 2002, the NAO found that:

“In disposing of such heritage property, Trusts are expected to obtain the advice of English Heritage. Their view is that the Trusts have acted on this guidance and that contact with Trusts has been generally good. English Heritage and NHS Estates have formed a historic hospitals working group, which promotes good practice, seminars and training events. It also acts as a sounding board for officials to discuss matters affecting heritage properties owned by NHS bodies. Jointly produced guidance incorporated into Estatecode provides a firm basis for partnership working” (paragraph 2.34).

**3.53** A similar awareness of heritage issues was indicated to the present study by NHS Estates, who reported that for significant listed buildings it specifically sought purchasers with experience of heritage issues (and mentioned five such hospitals in the South East region which it felt had achieved

## Box 2 · Disposal of St John’s Hospital, Bracebridge Heath, Lincolnshire

Will Holborow of English Heritage and Sue Taylor of NHS Estates described in the magazine *Context* in December 2001 the controversy surrounding the late 20th century approach to redundant hospitals:

“Too often, over the past two decades, closures have been characterised by delays, uncertainties and a lack of consensus between the various parties involved, particularly between local planning authorities and the NHS. Time and resources have been wasted by leaving buildings empty, unmaintained and prey to vandalism, while the planning situation has remained unresolved. Many sound historic buildings have been needlessly demolished and the setting of those that remain has frequently been damaged by unsympathetic development in their grounds. In the worst cases historic buildings being abandoned and their settings irreversibly compromised by insensitive modern

development, for example at St John’s, Bracebridge Heath, a former psychiatric hospital on the outskirts of Lincoln.”

St John’s Bracebridge Heath was the former County Pauper Lunatic Asylum which closed down in 1990 and was sold to a property developer. Many hundreds of houses have been constructed in the grounds, damaging the setting of the hospital and without obligation to bring the original buildings back into use. SAVE Britain’s Heritage reported in 1995 (*Mind over Matter*, page 45) that the hospital had remained empty and the buildings (including the listed ones) were deteriorating. This is still the case a decade later, though the former nurses’ quarters have been converted to flats and there are currently proposals to convert the main hospital to residential use.

### Box 3 · Disposal of Exe Vale Hospital, Exminster, Devon

Exe Vale Hospital is a complex of Grade II\* listed buildings built in 1842–45 to the designs of Charles Fowler as the Devon County Pauper Lunatic Asylum. Six radial wards extend from a large C-shape area within which stands the former administration block. The hospital was situated in 80 acres of grounds and was approached by a tree-lined drive. A chapel and sanatorium were added in 1877 and the hospital was further extended in 1906. In the late 1980s the Regional Health Authority, having vacated the hospital, divided the whole 80-acre site into 13 disposal packages which it sold to individual house builders. The Health Authority applied for consent to demolish the listed buildings, but this was refused following a Public Inquiry. With a view to maximising the return from the disposal, they attached a covenant to the sale of the listed buildings which precluded their conversion for housing.

While the asylum itself attracted no buyers and gradually fell into disrepair, house building went ahead on the rest of the site. Since it was built in the grounds of the asylum, which had a farm and market garden for the patients to work in, it has enclosed the previously pastoral setting of the hospital. The design of the new housing and layout of the new estate roads bear no relationship to their historic context.

English Heritage was authorised by the Secretary of State to serve an Urgent Works Notice on the central office building, and carried out emergency repairs to it in 1994. By 1999 the site was still deadlocked, and the other buildings were in a very poor state with the loss of roofing materials allowing water to penetrate and rot to set in. English Heritage was authorised to serve a second Urgent Works Notice, this time on the main hospital ward ranges, and carried out works costing £300,000 in temporary repairs, mainly to roofs.

The site was owned in 1999 by Heritage Developments, who successfully argued for the restrictive covenant to be lifted, and this allowed the site to regain some value and to be sold to a consortium of developers. Devington Homes are in the final stages of converting the hospital buildings to housing under the new name of Devington Park.

One of the lessons of Exe Vale is that sites need to be considered as a whole at the outset of a proposal to dispose and that, vitally, the future of the listed buildings must be secured before the rest of the site is developed.

successful conversions to new uses). Also a protocol was established with English Heritage for the 96 sites transferred to English Partnerships, not least because these include 40 listed buildings.

**3.54** Looking ahead, the pattern of future disposals will be significantly different from the recent past.

The sale of major surplus sites has largely been completed and NHS Estates was dissolved in 2005 as a result. Each NHS Trust is still expected to keep the suitability of its property portfolio under continual review, but the period of major revenue release for reinvestment in health care has now ended.

#### Box 4 · Disposal of Normansfield Hospital, Teddington, Richmond

Normansfield Hospital is a former mental hospital founded in 1868 by Dr John Langdon Down (who first identified Down's Syndrome). The Victorian main block retains an outstanding integral theatre added in 1874 and listed Grade II\*. The property has a protracted planning history since the hospital closed 10 years ago. The site was sold to Laing for development, with permission eventually being granted for a comprehensive scheme. The theatre passed to the Langdon Down Trust and has been well preserved, but house building was allowed throughout the grounds. The conversion of the

remainder of the original hospital to a hotel has not proceeded. Laing sold on that part of the scheme, but the new owners have allowed the building to remain empty and unrestored. Richmond London Borough Council is now threatening action against them.

The case illustrates the need for precautionary action to protect historic buildings even if the splitting of a permission and the separation of the main buildings from the associated grounds is not anticipated.

#### *Department for Constitutional Affairs*

**3.55** The Department for Constitutional Affairs reported that it had disposed of eleven County Courts and three other significant buildings since 1998. The principal reason given for these buildings being declared surplus was the requirements of the Disability Discrimination Act: compliance with disabled access requirements was so onerous services were moved elsewhere. Furthermore, the next most prevalent reason for buildings being declared surplus was their inadequacy in relation to the standards now required for modern functional needs, particularly with regard to arrangements for custody, security, human rights and the intimidation of witnesses. Finally, some properties had become underused, so services had merged leaving surplus properties.

**3.56** It is clear from the Departmental Investment Strategy 2000 (by the then Lord Chancellor's Department), that the pattern of asset disposals was not simply a matter of chance but had in part been arranged in such a way as to maximise the

opportunities for disposal. A section on Asset Utilisation states:

“We are developing a strategy for improving the value for money obtained from the estate. There are a number of strands to this. We are examining area-based rationalisation to achieve greater integration between the estates of the Courts Service and the magistrates' courts. The recent decision to realign the Judicial Circuit boundaries with county boundaries will facilitate this process. Major conurbations will be targeted first, where scope seems greatest for integration and holds out the potential for subsequent asset disposal” (paragraph 20).

**3.57** Whilst this illustrates the pressure on Departments to raise revenue from disposals, this need not necessarily have a particularly adverse effect on heritage courts. The same document notes how the revenues can be used:

“We are considering the scope for disposing of further surplus property to fund new investment in the work necessary to comply with the Disability Discrimination Act (DDA) to ensure that courts meet the requirements of

disabled users. The nature and diversity of the court estate, a high proportion of which is pre-1900 and/or is listed, together with the specialised nature of courtroom accommodation, will necessitate substantial (and often complex) improvements” (paragraph 29).

**3.58** The Department for Constitutional Affairs was well aware of the heritage issues capable of being raised by disposal of its property assets. It was the only Department other than Defence and Health which we encountered that had prepared its own internal advice on making the best use of its own heritage assets. It indicated to this study that before considering disposal it usually prepared a conservation and development report in line with English Heritage policy. Disposal of its surplus estate was in any event often difficult (no doubt because alternative uses compatible with the heritage properties were hard to find), and properties could have a negative value. DCA was prepared to dispose of property at below market value to charities or for community uses (but did not indicate if this had happened).

**3.59** Furthermore, the Department for Constitutional Affairs expects to continue to sell assets. It advised this study of two Magistrates Courts, one castle, and four public administration buildings (Town Hall/Shire Hall/Guildhall).

### *Other Departments*

**3.60** The Department for the Environment, Food and Rural Affairs gave details of six properties in its ownership which it had disposed of in recent years, ranging from a Scheduled Ancient Monument to two mansions and various other buildings. All had been sold to commercial bodies at market value for redevelopment as a revenue-raising exercise. The purchasers in each case had been aware of the heritage merit of the properties, but no additional measures had been taken by Defra to secure that

heritage interest.

**3.61** The National Asset Register and the Departmental Investment Strategies show that most Departments are attending to the opportunities for asset disposals. While each presents a snapshot of recent activity, the scale of engagement appears generally to reflect the assets owned by each Department. Furthermore, the opportunities for disposal vary considerably between Departments, with restrictions on disposals clearly identified. For example, the Cabinet Office reported that it “holds significant assets in the form of art and antiques, worth approximately £6.1m. These do not support any of the Cabinet Office’s objectives or targets but it would be inappropriate to dispose of them due to their historical and political importance” (DIS, 2002). Similarly, the Department for Culture, Media and Sport referred to the constraints in law on disposals by the many museums and galleries for which it is responsible, adding “many NDPBs are constrained in their freedom to dispose of assets; indeed many are seen as the physical embodiment of the national institution” (DIS, 2002).

### *Role of heritage assets in asset disposals: questionnaire responses*

**3.62** The questionnaire survey to Government Departments asked a series of questions on the approach they took to heritage assets and their disposal. Various findings are clear from the six complete responses and other partial contributions.

- (i) All the assets encountered have been land and buildings; Departments appear keen to retain chattels such as artworks.
- (ii) The principal reason for asset disposals, including heritage asset disposals, is revenue raising. Heritage issues are clearly a secondary consideration, arising in most cases only after the

decision to dispose has been taken.

(iii) There is no preference for the disposal specifically of heritage assets. The determining factor is whether the asset is surplus. However, there is scope to manage property assets to create the maximum number of surplus assets, so there is some possibility that this could be done in such a way as to either encourage disposal or retention of heritage assets.

(iv) Most Government Departments do not have their own internal good practice guidance on the management and disposal of heritage assets, but rely on the DCMS guidance from 1999 (which is generally found to be helpful), the three exceptions being the Ministry of Defence, the Department of Health and the Department for Constitutional Affairs. Some other Departments prepare biennial reports on their heritage assets, in line with DCMS guidance.

(v) No Government Department was aware that it possessed any non-operational heritage asset with a negative market value, or any that cost more to manage than the income it generated. (This is unlike local government.) Most of the assets they owned were operational. One Department noted that, once a heritage asset had become surplus, it would incur costs in site security and health and safety immediately prior to disposal: its cost would exceed its income at that point.

(vi) No respondent identified a heritage asset which was worthy of retention for its intangible benefits despite its holding costs. However, there is some indication that this may be the position with artworks held by Departments such as the Foreign & Commonwealth Office and Cabinet Office.

(vii) Only the Ministry of Defence identified heritage assets under its control as 'at risk'. MoD has an active strategy to address these properties in

England (see paragraph 3.44). However, even neglecting the Crown (which holds 15 sites listed on the Buildings At Risk Register) and arms-length government bodies (18), there are many sites owned by other Departments. The most recent English Heritage *Biennial Conservation Report: the Government's Historic Estate 2001-2003* describes each one, which can be summarised as follows: HM Prison Service (7), Royal Parks (3), Department for Constitutional Affairs (4), Department for Transport (3), Forest Enterprise (England) (6), Department of Trade and Industry (2), Home Office (7 at one location), Inland Revenue (1), Environment Agency (1).

(viii) Only the Ministry of Defence definitely took an active role in protecting wildlife when heritage assets were sold. There was very little knowledge of any standards comparable to those for historic buildings which Departments applied when disposing of assets with a wildlife interest, and no mention of wildlife was found in the National Asset Register or any Departmental Investment Strategy. One Department admitted that less attention was paid to wildlife.

(ix) No cases were reported or discovered where a Government Department had made a specific effort to attract external funds to support a heritage asset which it retained. In one sense this is understandable, as Government Departments are often the source of such funds for others and, as a 'safety net' themselves, may not wish to be seen to approach others to assist assets which they perhaps ought to be able to maintain themselves. On the other hand, this finding is similar to others in that it is rare to find zealotry on the part of Government Departments to press for solutions to difficult problems with specific heritage assets.

**3.63** Overall, the findings of the questionnaire survey and from official sources suggest a

workmanlike approach by Government Departments to dealing with heritage assets, notably in very recent years. This is in the context of a disposal process clearly driven by financial imperatives and, in most Departments, little inherent interest in heritage assets. The Ministry of Defence, however, has exemplary guidance and written procedures and, with the Department for Constitutional Affairs, can demonstrate a clear attention to heritage issues. This is encouraging as these are two of the few Departments which expect to continue disposing of heritage assets on any scale in the next few years. There is also evidence that the DCMS guidance *The Disposal of Historic Buildings: guidance note for Government departments and non-departmental public bodies* (June 1999) is well-received and is capable of being made to work effectively.

### Asset disposals by heritage agencies

**3.64** A range of agencies in Government own heritage assets as a direct part of their remit. The study aimed to establish whether these assets were being disposed of. Questionnaires were circulated to the Environment Agency and the Countryside Council for Wales (see Chapter 5), and telephone discussions held with a selection of other agencies.

#### *Forestry Commission*

**3.65** The agency whose management and prospective disposal of heritage assets is potentially of greatest interest to this study is the Forestry Commission. The Commission owns one of the largest portfolios of land within government. There is a significant recent history of disposal of the Commission's land assets, following a policy decision of the last Conservative administration to sell 100,000 hectares of Forestry Commission land by 2000. The present administration was elected in 1997 with a manifesto commitment to halt this

sales programme, which was then implemented. Since then, disposals have largely been limited to rationalisation sales, such as boundary adjustments and small woods.

**3.66** Now, however, the Commission is being required to make its assets work harder and is being given stringent financial targets to meet. At the same time, the Commission since 1997 has been given a stronger environmental remit and a greater focus on public benefit. This has produced new initiatives (such as to protect ancient woodlands), which tend to be costly. The result is that the Commission is being squeezed financially at both ends, at the same time as timber prices have been falling. The consequence is that asset disposals are a real possibility: faced with a budget deficit, the choices are to cut programmes, cut staff, or sell assets. The outcomes depend on the stringency of the financial targets imposed by the Treasury on the Forestry Commission, but it is clear that disposal is a distinct possibility if the next financial settlement is any tighter.

**3.67** Disposal is already considered as a possibility where there are financial pressures on the Commission. The test is if it can be shown that there is a 'greater public benefit' in some other use of the land rather than forestry. The Commission might actively promote a land sale itself, in the search for the best possible income, for example without necessarily waiting for its land to be allocated for other purposes in a local authority development plan. The sites selected for sale are usually small with a prospect of a high revenue, and are sold with the benefit of planning permission. (The procedure for asset sales follows that for other parts of Government in giving other Departments first refusal for 40 days by placing land on English Partnerships' register, but it was unheard-of for any other Department to be interested in acquiring such land.) Therefore, in the unusual cases where

land is being sold, the objective is very much revenue-raising rather than sales to alternative public-minded owners. In these cases, land would be passing out of forestry and into other uses, so the option of selling heritage assets to bodies with a heritage remit would not apply.

**3.68** Since about 1997, bodies such as the Woodland Trust have in any event ceased acquiring land from the Forestry Commission, as the Commission itself now manages its property to such environmentally sound standards that the Woodland Trust is satisfied with the present ownership. An exception to this arises if other bodies are able to access grants for public benefit which are unavailable to the Commission. So, whilst the Commission itself has obtained sometimes very substantial grants, e.g. recently for the restoration of brownfield land to woodland, on other occasions the Commission will enter into management agreements with Conservation Trusts when those bodies could access appropriate grant funds.

### *Environment Agency*

**3.69** The circumstances within the Environment Agency are less clear. As the Agency owns sea defences, navigation structures and open land assets, amongst others, there is a likelihood that some of these are heritage assets. A range of habitats in its ownership certainly appear to fall into this category. The Agency indicated that its commitment to sustainable development meant that sales of sites might well be accompanied by limitations on their subsequent use or management, such as maintaining public access or requiring the enhancement of a natural habitat. However, property would then be sold at market value (adjusted to reflect these limitations) rather than with a gift element. Whilst it is reasonably clear that the Agency does dispose of heritage assets from

time to time, no detailed information could be provided for this study. Nonetheless, an assurance was given that there had been no significant heritage asset disposals within the last five years.

**3.70** The Environment Agency indicated that it did not have an explicit policy on heritage matters in its Estates Policy Manual. It would, however, be reviewing its policies on asset management and estate management in the coming year and would identify all those assets which may have heritage value. This would enable heritage to be included more explicitly in asset management decision making.

### *Other agencies*

**3.71** In addition to these bodies, heritage assets are also owned by English Nature, English Heritage and Cadw, though disposal of such assets by these bodies is understood to be rare. So far as the most problematic properties in the ownership or guardianship of English Heritage are concerned, its own latest *Biennial Conservation Report: the Government's Historic Estate 2001-2003* identifies three sites on the Buildings At Risk register. All are intended for repair rather than disposal.

**3.72** This study did not extend in detail to those numerous agencies of Government which may hold heritage assets incidentally to their primary functions, and may therefore dispose of such assets from time to time. Such disposals should in any event pass through the English Partnerships' *Register of Surplus Public Sector Assets*. English Partnerships plays a significant part in the disposal of government assets in a number of ways. First, its *Register of Surplus Public Sector Assets* acts as a clearing house for land being disposed of by all Government Departments. Second, English Partnerships acts as an intermediary, acquiring land from one Government Department and passing it

to another. Third, unlike most other agencies, it buys and sells property in its own right as part of its functions. The Departmental Investment Strategy of ODPM therefore outlines the scope of its activities in this respect. English Partnerships itself is likely to be one of the more significant agencies disposing of heritage assets incidentally.

### **Conclusions**

**3.73** The conclusions on heritage asset disposals by heritage agencies are clear. Such disposals are rare and, with the possible exception of the Forestry Commission, likely to remain so. Where disposal does arise, this is much more likely to be for operational reasons than to raise money, other than in the case of the Forestry Commission. There is a possibility that in future the Forestry Commission may be forced to sell significantly more assets with a heritage interest to balance its books. If so, that would set aside the commitment on which the current administration was elected.

### **Perspective of the heritage agencies on heritage asset disposals**

**3.74** The study sought an external assessment of the disposal practices used by central government. Views were canvassed from the Government's own heritage agencies and from the voluntary heritage sector. The aim was to discover whether the procedures available were used as intended, whether these were satisfactory in their outcomes, and whether there were any other informal mechanisms used to protect heritage assets in the disposal process. A similar analysis was carried out for the disposal of local authority heritage assets.

### **English Partnerships' Register of Surplus Public Sector Assets**

**3.75** English Partnerships advised that they hold a

list of regulatory and advisory bodies who are specifically alerted to the appearance on their 'Register of Surplus Public Sector Assets' of properties which may be of interest to them. This extends to bodies such as The Countryside Agency, Royal Parks Service and National Forest Company: appropriate bodies need only make a request to be added to the list. English Partnerships indicated that it refreshed its contact list periodically, upon which basis organisations are given authorised access to the information, held on the website of the Office of Government Commerce, within the 40 day internal disposal process. The scope for extending the service to local government was being piloted.

**3.76** The arrangements for the Register were working reasonably well from English Nature's perspective. The more significant disposers of heritage assets were using the Register, notably the Forestry Commission, Ministry of Defence and Scottish Office. The Highways Agency too was also using the Register, though this had not always been the case. The problem had been resolved after a difficult case in which a Highways Agency disposal had threatened an SSSI: see Box 5.

**3.77** The mechanism for alerting English Heritage to new entries in the English Partnerships' Register, however, had broken down at the time this study investigated the matter (though this has now been rectified). English Heritage was not being informed of sites coming onto the market, and its other mechanisms for identifying prospective sales (such as studying lists held on the Defence Estates website) were not always reliable. Some sites should have been notified to English Heritage but were not. One which came to their attention by chance was Le Marchant Barracks, Devizes, Wiltshire: the property, which included the listed Cardwell Keep, had been advertised for sale in 2004 after the army had vacated the property, but English Heritage had not been informed nor had

the opportunity to investigate the cultural significance of the site for the information of prospective purchasers. More generally, the Register appears to have been used simply as a working tool rather than for monitoring and evaluation.

### *English Heritage's experience*

**3.78** By far the most advanced arrangement for any statutory heritage agency to monitor the disposals of heritage assets by public bodies is the Government Historic Estates Unit (GHEU) within English Heritage, which works with Government Departments and their NDPBs and agencies. GHEU's work includes encouraging the sound management of heritage property, so it is well-placed to engage with public bodies at the critical time before heritage assets are presented for disposal. GHEU has about 8 staff members. It is also responsible for providing English Heritage's guidance on relevant issues and for compiling a biennial report on the Government's historic estate (drawing together the information provided from

each Department [under the 'Green Minister' initiative]).

**3.79** English Heritage considers the raft of policy in place protecting historic property through the disposal process to be sufficient for the most part and capable of working well. It is not possible to set out best practice for every conceivable circumstance, given the idiosyncratic nature of the heritage (and sometimes its owners!). Furthermore, particularly on complex sites, there is some scope for selective interpretation of the guidance if vendors are keen to try to avoid its provisions. There may be a case for a practical handbook on how to achieve in practice the best outcome for the heritage, as a companion guide to the existing more rule-based guidance.

**3.80** The proper application of the established provisions is a far more important implementation task for English Heritage than revising the guidance. Most of the problems which English Heritage finds that it must address derive from two

### **Box 5 · Disposal of Hurcott and Podmore Pools SSSI by the Highways Agency**

The Highways Agency had acquired this 40 hectare site at Kidderminster as part of a planned highway scheme but intended to dispose of the site when the scheme was abandoned. Hurcott and Podmore Pools were probably formed by mediaeval damming of the Hurcott Brook to provide water for industrial use. As well as open water there is a range of swamp, mire and wet woodland communities that have developed in the valley bottom. Peat deposition has occurred on the site, but the hydrology may have been adversely affected by groundwater abstraction. As well as the range of wetland communities, the site is important for birds

and invertebrates. The wet alder woodland is the largest alder woodland in the West Midlands.

The Highways Agency had commenced sale of the whole estate to a private purchaser when English Nature was alerted by Wyre Forest District Council. The Highways Agency reviewed the disposal process as it had not consulted English Nature or followed the procedures in the Green Ministers' Biodiversity Checklist. As a result the District Council was able to buy the land at open market value, with a grant of £150,000 from English Nature towards the cost.

sources: financial pressures and the administrative independence of vendors.

**3.81** Government bodies are under pressure from the Treasury to maximise their revenues from the disposal of surplus assets, and this can easily collide with heritage interests. The provision in the Resource Accounting Manual allowing sales revenues to reflect heritage interests (see paragraph 3.11) is an option and not a compulsory requirement: vendors may simply not wish to reduce their revenue. Furthermore, vendors may have expectations for their incomes from heritage asset sales which far exceed realistic values once proper account has been taken of securing heritage merit in property. Early advice from GHEU can be especially valuable here to avoid simple misconceptions, though this may not assuage a determination to maximise revenue. The sale of the former RAF Kemble (Box 6) and of the Royal Aircraft Establishment, Farnborough (Box 7) illustrates the kinds of clash between revenue and heritage which can arise. Both cases indicate the adverse impacts of inadequate early attention to heritage issues not only on the surviving heritage interest of such sites but also on the commercial aspects of investment in them. They demonstrate that Departments can be patchy in their attention to internal protocols and established policy for the proper protection of heritage assets.

**3.82** English Heritage has good working relationships with Government bodies heavily involved in asset disposals, such as Defence Estates and the Courts Service. Securing the best interests of the heritage depends in part on informality and personal relationships rather than on rules alone. However, the experience of recent years is that central bodies within Departments who have responsibility for heritage issues may not always be able reliably to ensure the application of best practice within their organisations. Some

responsibility for asset management is rightly devolved to the local level, so there is a need for all those involved to be aware of Departmental commitments. As the personnel locally can sometimes be in post for only quite short periods, there is a continual task of education in this matter, and some disposals may begin on an unsatisfactory basis. GHEU will have a permanent job creating and nurturing partnerships with asset managers in central government. It is inevitably in the largest Departments with the longest hierarchies and greatest number of staff involved where problems have tended to arise. The Ministry of Defence is the largest of all, but correspondingly does have its own central unit dedicated to heritage issues. Furthermore, the freehold of MoD property is now vested in the Department itself, rather than in the garrisons, which should enable a central direction on heritage issues to be applied more effectively.

**3.83** A final and separate problem is that English Heritage has concentrated its efforts on property and gives relatively little attention to chattels. Proper attention to chattels may be obvious in cases where properties are important more for their associations than for their fabric. Nonetheless this does appear to be a topic where heritage assets are quite capable of slipping through the net of responsibility within the public sector. Greater consideration of chattels would also need to be accompanied by appropriate record keeping of the transfer of potentially large numbers of small items.

**3.84** These difficulties should be seen in the context of considerable improvement in recent years in the attention paid by Government Departments to the DCHS guidance from 1999. There are many examples of successful disposals of heritage assets, some noted in Box 8, where the heritage interest has been secured, sometimes on complex sites with adaptation taking place over many years.

## Box 6 · Disposal of former RAF Kemble, Gloucestershire and Wiltshire

RAF Kemble has been identified as one of the best-preserved military airfield landscapes in England from the pre-1945 period. It is the most strongly representative – by virtue of its range of hangar types – of twenty-four Aircraft Storage Units planned and built by the Air Ministry between 1936 and 1940. The hangars are dispersed in pairs around the airfield and include the most advanced Air Ministry hangar types of parabolic form and concrete construction. The airfield includes a section of the Roman Fosse Way and adjoins the Cotswolds Area of Outstanding Natural Beauty.

A development framework for Kemble aerodrome was prepared by the two local planning authorities (Cotswold DC and North Wiltshire DC) in 1997–98 in advance of the disposal. This set out broad planning objectives, envisaging continued use for flying and light industrial purposes. However, it did not refer to the historical significance of the site or to the possibility that any of the buildings might be listed. However, English Heritage recommended that 8 of the hangars on the perimeter of the airfield be listed at Grade II (as part of its thematic review at the time of military aviation sites).

The Ministry of Defence placed the site on the open market in 1999 and easily the highest bid was received from MEPC, a large commercial developer. This was likely to have been based on the expectation that the site could be fully developed, contrary to the development framework produced by the local authorities. In 2000, the MoD announced that the airfield would be sold to MEPC, for about £7.4 million. MEPC planned to

develop the site as a business park. However, they were insufficiently aware at that stage of English Heritage's interest in the site or the possibility of some of the buildings being listed. Defence Estates put maximum pressure on English Heritage to withdraw their listing recommendations for the site. This was clearly contrary to the DCMS guidance note on disposal of historic buildings. The pressure to achieve the maximum return to the Treasury clearly dominated the handling of the sale by Defence Estates.

The sale to MEPC fell through due to the listing proposals, and the site was subsequently purchased by Ronan Harvey, an airfield businessman. The site remains in mixed commercial use with flying on the airfield. In January 2005, plans were announced for a major project to create a museum and education centre by Ronan Harvey and Air Atlantique proprietor Mike Collett. The hangars were finally listed later in 2005.

### Box 7 · Royal Aircraft Establishment, Farnborough

“The Royal Aircraft Establishment which grew to occupy 180 acres was nothing less than the cradle of flight in Britain and the spiritual home of aviation in these islands” is the description of RAE Farnborough by SAVE Britain’s Heritage. The heritage significance of the group of listed buildings (dominated by the wind tunnels) at the heart of the site was acknowledged by Defence Estates by defining, in the tender invitation brochure, an “area of special character” embracing 4 listed buildings. Although the process preceded the 1999 revision of DCMS guidelines, nothing else was done to explain the cultural significance of these listed buildings, nor the overall site as a specialised military/industrial complex, nor to prepare a Planning Brief requiring safeguarding or enhancement of the listed buildings. This was not for want of evidence of local interest in the cultural significance of the site, because an enthusiastic voluntary society, Farnborough Air Sciences Trust (FAST) was active before the sale (and remains so today) on behalf of the site’s scientific and technological heritage.

The site was vacated by the Ministry of Defence in 1998 and sold to the highest bidder, Slough Estates, for £57m. SAVE report that “a survey of the site for listing purposes was carried out a year before the sale, yet few of the listings conferred on the buildings reflect the recommendations made by the listing inspector: all were pegged down a notch following representations from the MoD and interference from the Cabinet” (*Enough has been bulldozed: Save Farnborough*, 2001). A clearer indicator of Government priorities in favour of revenue over heritage would be difficult to find.

The impression gained (and the experience of FAST) in the earlier phases of redevelopment was of the new owner’s complete indifference to the historic buildings. Slough Estates quickly demolished the buildings not protected by listing (including those earlier recommended by English Heritage for listing at Grade II but not added to the list by the Department for National Heritage). A grid of access roads, in locations and at levels unrelated to the surviving historic buildings was then laid down to serve the new structures.

The new properties proved hard to let, apparently because the development was insufficiently distinctive. New management on the site subsequently gave greater attention to the heritage aspect, such that the former portable airship shed is planned for re-erection as a symbol of the former use of the site (not without controversy). The grades of at least two of the listed buildings and the supersonic wind tunnel have also been raised recently and the 24ft wind tunnel has been elevated to grade I in line with the original English Heritage recommendation.

The outcome vindicates the campaigning stance in respect of the remaining historic buildings taken by SAVE over recent years. Their 2001 publication highlighted the opportunities the original buildings offered for new uses: “Historic buildings are often seen as a problem. Here they represent a major opportunity to add value to the whole enterprise, acting both as a gateway and national landmark.”

## Box 8 · Successful disposals of heritage assets by central government

### 1. **Royal Arsenal, Woolwich** (Ministry of Defence)

The conversion of this major 76 acre brownfield site has been in progress since 1993, involving public and private sector investment and co-operation. The mixed-use development has followed a regeneration and conservation masterplan which has respected the 66 buildings on the site of which 21 are listed. New uses include two museums, 55,000m<sup>2</sup> of industrial and office space, 711 dwellings, and education, leisure and tourism facilities.

### 2. **Royal William Victualling Yard, Plymouth**

(Ministry of Defence)

The main buildings of the Royal William Yard are listed grade 1. The Ministry of Defence disposed of them in 1994 to Plymouth Development Corporation with the assistance of a large capital sum. £24m was invested in infrastructure, particularly drainage. Stringent requirements apply to any works affecting such high calibre listed buildings. Conversion to residential use of the major buildings overlooking the Tamar estuary has been successful, though it is too early to be sure whether all the potential uses for the remainder of the yard will be realised.

### 3. **Royal Naval Hospital, Stonehouse**

(Ministry of Defence)

The disposal of this site so far has the appearance of being a success. Current proposals include a relocated school (St Dunstan's School for Girls) requiring a larger site for sports facilities and for buildings which convert into laboratories and classrooms. The Residences and Officers' Mess are to be converted into houses and flats.

### 4. **Exeter Combined Court, Rougemont**

**Castle** (Department for Constitutional Affairs)

Exeter Combined Crown and County Courts have sat in the Sessions House of 1774, which stands within the inner bailey of Rougemont Castle. The Castle was founded in 1068 by William the Conqueror overlying remains of the Roman city, and is one of the most important historic sites in Exeter. This is reflected in its high degree of legal protection as a Scheduled Monument, and in the Grade I and II\* listing of its principal structures. However, because of the restrictions imposed by its use as a seat of royal power and as Courts of Justice, it has been one of the least known and least accessible parts of the city. The Courts are relocating and the Department for Constitutional Affairs will shortly market the Sessions House. Guidance by Exeter City Council for the site will open up the Castle to reasonable public access, integrating it into the city as a key element of the cultural quarter, and ensuring that the historic importance and quality of the site and buildings is respected, enhanced, and maintained by a future use or uses.

## Box 9 · Successful disposals of natural heritage assets by the Ministry of Defence

### A. Disposal of Rainham Marshes

Rainham Marshes comprise 376 hectares of the Inner Thames Marshes SSSI, which form the largest remaining expanse of wetland bordering the upper reaches of the Thames Estuary. The site is of particular note for its diverse ornithological interest, and especially for the variety of breeding birds and the numbers of wintering waterfowl, waders, finches and birds of prey, with wintering teal populations reaching levels of international importance. The Marshes also support a wide range of wetland plants and insects with a restricted distribution in the London area, including some that are nationally rare or scarce.

The Ministry of Defence advised local English Nature staff when its ranges at Rainham Marshes became surplus. English Nature assisted in the purchase of the land by the Royal Society for the Protection of Birds, assisted by a Heritage Lottery Fund grant of over £2m (also for subsequent management costs).

### B. Disposal of Misson Training Area SSSI

When the 85 hectare Misson Training Area became surplus to Ministry of Defence requirements as a bombing range it contacted English Nature. This peatland supports a diverse range of semi-natural habitats including nationally scarce fen woodland types, tall herb-fen, standing water and unimproved grassland. The site is noted for its unusually rich assemblage of invertebrates, especially moths, and its breeding bird community. The training area is a rare example of a relict fenland formerly typical of the Misson/Idle levels of north Nottinghamshire and complements a number of small wetland SSSIs in the Humberland Levels Natural Area.

The site was sold at market value to the Nottinghamshire Wildlife Trust on English Nature's recommendation, with English Nature contributing a grant of £12,875 (and further support for management).

## Box 10 · Disposal of Pilning Rifle Range by the Ministry of Defence

Local MoD staff were apparently unaware of the established national agreements for the disposal of property when this rifle range in Gloucestershire became surplus. Bids were invited for the site which is not only an SSSI but also internationally important as a Special Area of Conservation and a Special Protection Area. English Nature became aware of the disposal and sought restrictions in the terms of the sale to protect the wildlife interest.

One bidder, a private club, was unwilling to agree to English Nature's restrictions, though in the event did not offer the highest bid. The site was acquired by a private individual who is engaged in discussions with an NGO over the detailed management of the site. The wildlife interest in the site is therefore likely to be protected, in a somewhat fortunate outcome.

### *English Nature's experience*

**3.85** English Nature had been able to broker the disposal of various sites of wildlife importance to sympathetic bodies, either as a result of proposals being identified through the English Partnerships' Register or through English Nature's contacts at a local level. Examples are given in Box 9, where the local contacts have arisen in line with the Declaration of Intent agreed between English Nature and the Ministry of Defence (see paragraph 3.36).

**3.86** The Ministry of Defence, through Defence Estates, clearly has the most advanced arrangements of any Government Department for the appropriate disposal of surplus property with a wildlife interest, and has extensive commitments in place to promote these. Nonetheless, these centrally-agreed commitments are not necessarily always properly followed at a local level in so large an organisation. The kind of difficulty which can arise is illustrated in Box 10. The Ministry of Defence is trying to improve its internal processes, but English Nature anticipates that helping these to work will require its ongoing involvement.

## 4 · Local authorities

### Asset management in local government

#### *The emergence of asset management planning*

**4.1** Local government, like central government, is under considerable pressure to show efficiency in the management of its assets, and is similarly encouraged to dispose of surpluses. Asset management planning in local government is as much an evolving process as a series of products, and is shaped much more by policy and by pressures from the Treasury than by particular legislative requirements. At the same time there has been ongoing reform of the capital finance system in local government, in which financial allocations are increasingly made on the basis not only of needs but of performance.

**4.2** The main requirements for operating the new regime were clear by 2000, when the Department of the Environment, Transport and the Regions published *Asset Management of Local Authority Land and Buildings – Good Practice Guide* (March 2000) and the Audit Commission published its review *Hot Property: Getting the best from local authority assets* (April 2000). The necessary technical and organisational steps in the process of asset management were set out, and the preparation of an Asset Management Plan as a tool to assist this was established. A strong corporate and strategic approach to asset management would be required, and the DETR guidance began the process of formalising and standardising what was expected of individual local authorities. Overall this amounted to a significant move away from historic practice in many authorities, which had traditionally identified particular buildings with particular functions and patterns of use. Land and buildings Asset Management Plans would be distinct from those

AMPs already required from Education Authorities by the Department for Education and Employment. Furthermore, investment in transport and housing were excluded (covered by Local Transport Plans and Housing Investment Programmes respectively). All these other asset management vehicles have been treated as outside the scope of this study.

**4.3** Local authorities were required to submit to the Department their corporate Capital Strategies and Asset Management Plans in 2001, with Government allocations for 2002–03 announced in December 2001. Although most funds were allocated on the basis of need, for the first two financial years 5% of the allocation was discretionary and essentially rewarded councils which had submitted impressive Strategies and Plans.

**4.4** Advice to local authorities on Asset Management Plans was updated in April 2003. Government Offices would assess all submitted AMPs against criteria set out in the advice, and rate them accordingly as ‘poor’, ‘satisfactory’ or ‘good’. Councils receiving a ‘good’ assessment would not be required to submit the plans in subsequent years for assessment, nor would this be required if they received an ‘excellent’ rating on the Comprehensive Performance Assessment from the Audit Commission.

**4.5** After the third round assessment, for 2004–05, only 36 councils had not achieved a ‘good’ rating, and these then held direct discussions with Government Offices rather than being required to submit Asset Management Plans in future. However, this position should not be taken to imply a preponderance of sound practice. An independent assessment observed pointedly that “There is a widespread perception amongst the Government Offices that the increasing proportion

of councils securing a 'good' rating reflects both an improvement in the documents submitted and a less stringent approach to the assessment process, although it is not possible to identify the balance between these two factors" (*Beacon Council Scheme 2004 Round 6 Theme: Asset Management*, York Consulting Ltd, 2004).

**4.6** The process of refinement and developing expertise in asset management planning continues, in part in association with further changes to the capital planning regime. The Government has introduced a 'Prudential Code' (which provides for greater local authority self-regulation of borrowing to support capital investment) and a change to Whole of Government Accounting (with the aim of local government and central government using best practice and transparent commercial-style accounts). Furthermore, ODPM supported new guidance published by the Royal Institution of Chartered Surveyors on Asset Management in Local Government (August 2005).

### **Local authority performance in asset management**

**4.7** Asset management practice in local government is somewhat behind that in central government. The integration of capital investment, major repairs and maintenance has historically been weak in local government both at the property and portfolio level, even though the average local authority devotes 8% of its annual revenue budget to running and maintaining property. Very often the real costs of holding or disposing of property have been unclear.

**4.8** There is ample evidence that standards of practice in asset management among local authorities are still often weak, even though real advances have been made since the Audit Commission's critical report *Hot Property* in 2000. For example, the York Consulting study in 2004

identified ten desirable outputs from the process, but their survey of 15 authorities found that only 3 of these achieved more than five of the outputs. The study went on to identify a series of indicators of good practice "evidence of which will indicate that councils have made the transition from planning to 'doing'", without specific examples being offered.

**4.9** Sir Michael Lyons' report *Towards better management of public sector assets*, also in 2004, similarly records progress tempered by deficiencies in some authorities:

"ODPM's work with local government in recent years to develop asset management and capital planning means that most authorities now have good quality systems in place" (paragraph 2.6), but nonetheless:

"Often, there is no corporate approach to land and property management. A number of local authorities still lack a clear asset management strategy and a strong steer to aid decisions on property. In many cases, responsibility for decisions on property is dispersed among operational departments with little attempt to achieve a corporate and board level overview of the local authority's property portfolio" (paragraph 6.19).

**4.10** Local authority performance in asset management is evaluated extensively. The Audit Commission considers this through both Best Value and Comprehensive Performance Assessment, and ODPM considers it through the capital spending programme, supported by its promotion through best practice exemplars in Beacon Councils. The incentive mechanism for Comprehensive Performance Assessment is outlined in paragraph 4.4, and for Best Value and Beacon Councils in Appendix 2.

### *Managing local authority asset disposals*

**4.11** Pressure on local authorities to dispose of surplus assets is long-standing. The Audit Commission's report *Hot Property* noted that, in the years up to 2000, forces other than the best economic interests of individual properties had been more significant in explaining the pattern of local authority asset disposals:

“..the disposal of property is more likely to be driven by the Treasurer's requirements for capital receipts than by a regular appraisal of which assets are under-used or potentially surplus to requirements” (paragraph 12); this is irrespective of whether those assets were making an adequate return on revenue (paragraph 48).

It proposed bluntly that local authority managers “Review assets and challenge whether they need to be retained. Dispose of assets that do not support core service objectives or fail to make an adequate return on investment”. It urged a more positive and integrated approach to property asset management within local government and the more focused use of Asset Management Plans. The Government has broadly implemented these recommendations<sup>10</sup>.

**4.12** Asset disposal has always been an element of Asset Management Plans and has become increasingly important. The DETR guidance in 2000 identified two drivers for disposing of local authority property. The first was where an asset no longer met any of the council's service and administrative requirements, and disposal would realise a capital receipt. The second would arise if property was held for investment purposes but was either failing to generate the income required or there was an overriding need for capital receipts. One of the requirements of corporate Capital Strategies was to review existing properties and service needs in order to explore opportunities for

the more efficient and effective use of assets and the release of resources through disposal. One of the requirements of Asset Management Plans was to aim for a maximum return on investment and surplus properties. Both documents therefore built in pressure on local authorities, financially rewarding disposal of property that could be seen as surplus.

**4.13** A further incentive to disposals was created in April 2002, when the Government abolished ‘receipts taken into account’. Until then, such receipts had offset a proportion of local authorities' capital support from the Government, discouraging authorities from bothering with disposals. (One disincentive to relinquish assets, however, was noted by Sir Michael Lyons in his December 2004 report. He had been advised of “particular accounting problems associated with heritage buildings whose book value is likely to exceed their market value” (paragraph 6.14). Authorities may find themselves having to write down book values to more realistic levels in these circumstances.)

### *Heritage issues in local authority asset management planning*

**4.14** Heritage issues have for the most part been neglected in local authority asset management planning. They were not mentioned at all in the DETR *Good Practice Guidelines* of March 2000. The most up-to-date advice to local authorities is the RICS/ODPM guidance *Asset Management in Local Authorities* (August 2005). This contains remarkably few references to heritage issues, all of which are brief:

- meeting the challenge of affordability will have ‘significant implications’ for the management of listed and historic buildings;
- environmental objectives and responding to consultees may suggest that property needs

- should be met through refurbishment of heritage assets<sup>11</sup>;
- local authorities may hold ‘non-operational’ properties if these are heritage assets held for environmental reasons: local authorities “need to regularly review and challenge their non-operational estate and the reason for which it is held”; and
  - space utilisation standards in terms of square metres per person in office accommodation may need to be adjusted in the case of the use of heritage assets for operational purposes.

**4.15** There is a risk that guidance such as this will cause heritage assets to be viewed as something of a nuisance in asset management terms. There is a particular dearth of advice on the integration of good practice in the management of heritage assets into the procedures for accounting for them, so there is a further risk of damaging conflict within a local authority between its objectives for asset management and for heritage protection.

**4.16** There is no formal Government advice to local authorities on the disposal specifically of heritage assets from an accounting perspective. There is, however, general advice on the sale of land where there is a case for reducing its sale price as part of an arrangement to secure another public interest (other than maximum income from the disposal). Sales of assets by local authorities are regulated by the General Disposal Consent (England) 2003. ODPM Circular 6/2003 *Disposal of land for less than best consideration* explains this. It is Government policy that land should be sold for the best consideration reasonably obtainable. Nonetheless, in general, local authorities can dispose of land for up to £2m less than its unrestricted value without authorisation from the Secretary of State, where the authority considers this will help to secure the promotion or improvement of the economic, social or

environmental well-being of their area. Securing heritage interests might well fall into that ‘well-being’ bracket. Furthermore, sales of land where the undervalue is even higher are permissible with the Secretary of State’s authorisation. However, these powers are only options available to local authorities: they are not obliged to offer this assistance to heritage assets on disposal.

## Heritage asset disposal policy in local government

### Government advice

**4.17** There is considerable advice to local authorities on the management and disposal of heritage assets from a heritage perspective, even though this has not been reflected in guidance to asset managers. The key source of advice for local authorities in England is a joint English Heritage, DCMS and ODPM publication *Managing local authority heritage assets: some guiding principles for decision-makers* (2003). This contains a wealth of good practice and numerous examples, together with a set of twelve key principles. Its principles on the disposal of assets (section 6) are:

- “Take a positive attitude to disposal: the disposal of heritage assets, especially those that are straightforward to adapt to alternative uses, may provide the best solution for such property.
- Obtain optimum value: the aim on disposal of heritage assets should be to obtain optimum value, rather than the highest price.”

**4.18** The text makes clear on the first point that the advice applies mainly to assets held by chance. Every effort should be made to continue the core civic purposes of those assets whose historic importance rests largely on their character as public buildings. Where that is not possible, disposal should take account of the community interest in them.

Even with heritage assets which do not assist core civic purposes, the tone of the guidance is supportive of retention by a local authority, indicating circumstances in which this may be superior to disposal (page 29):

- for specialised buildings, “their best future generally lies in maintaining more or less the mixture of uses for which they were designed. Decisions to vacate or dispose of such buildings should therefore be based on careful assessment of whether they can be adapted to the authority’s current and likely future needs, as well as alternative uses in the market”;
- the whole life costs of the different options should be considered, including “securing its long-term future in an appropriate use, if the market cannot realistically do so”;
- “The public’s perception of the fate of civic buildings that represent cumulative investment in pride of place is also an important factor to be taken into account”.

**4.19** The guidance has clear parallels with the guidance issued by the Department for Culture, Media and Sport on *The Disposal of Historic Buildings: guidance note for Government departments and non-departmental public bodies* (June 1999), see paragraphs 3.26–27 above.

**4.20** First, Government guidance on local authority heritage asset disposal from a heritage perspective is similarly clear that obtaining optimum value (i.e. the best return consistent with policies for the protection of heritage assets) “may well limit the realisation of potential development values” (page 33). The 2003 guidance quotes policy on judging the best use of historic buildings, set out in Planning Policy Guidance note 15 *Planning and the Historic Environment*, 1994 (paragraph 3.9), and applies it to the disposal of local authorities’ assets: the consideration on disposal will normally mean

seeking the “optimum viable use that is compatible with the fabric, interior and setting” of the asset. “This may not necessarily be the most profitable use if that would entail more destructive alterations than other viable uses.”

**4.21** The public interest in heritage assets can also affect the selection of suitable future uses and therefore sale prices. The 2003 guidance continues (page 33):

“Of course, not all costs and values can be reduced to monetary terms, but this does not mean they cannot be taken into consideration. The value attached to buildings by the local community, for example, is of crucial importance. Local authorities need to take into account the non-financial and wider regeneration benefits that may result from disposal, including environmental, cultural and long-term economic benefits.”

**4.22** The second aspect of the 2003 guidance on disposal of local authority heritage assets which is similar to the central government context concerns disposal procedures. Methods of disposal normally preferred (auction or competitive tender) may not be the best for heritage assets. Where outright sale is involved and the buyer has unrealistic expectations, the asset may become derelict or pressure may mount for undesirable associated ‘enabling’ development to fund the larger-than-budgeted costs of securing the asset’s future. The guidance observes that “The risk of such an outcome can be reduced by the preparation of a brief prior to disposal, and by sale being conditional upon statutory consents being obtained and implemented within specified periods” (page 33).

**4.23** The third similarity with advice on central government assets is the advice on treating groups of historic buildings and heritage assets as a single entity. “They may need to be marketed as a single development package, in order to avoid the

isolation of historic elements of the site and consequent damage to their setting and amenity value. This is particularly important if cross-subsidy with a development scheme will be necessary to secure the future of the heritage assets” (page 33).

**4.24** The significant difference between the central and local government sectors is that the advice relevant to Government property on obtaining optimum value (i.e. moderated by heritage protection policies) is also established in the Resource Accounting Manual, whereas the equivalent advice on local authority heritage interests has not been reflected in accounting guidance on asset management in local authorities.

**4.25** One further important issue evident from the advice to local authorities is the relationship between policy on disposal of heritage assets and policy on their management. In Planning Policy Guidance note 15 *Planning and the Historic Environment* “The Government urges local authorities to maintain and strengthen their commitment to stewardship of the historic environment, and to reflect it in their policies and their allocation of resources” (paragraph 1.6). Recognising that some properties on the Buildings At Risk Register are in public ownership, English Heritage’s 1998 report *Buildings at Risk: a new strategy noted*: “The credibility of a local authority’s strategy will generally be judged by the way it deals with any buildings at risk it owns. It is vitally important to be seen to set a good example in developing solutions, even if implementation may take some time” (page 15). English Heritage went further in *Power of Place* (2000), asking the Government to “make public bodies accountable, through regular monitoring, for their performance in maintaining their historic estate” (Recommendation 6b).

**4.26** It is clear that the need for encouragement of

local authorities to use good practice in heritage management is necessary because standards are not universally high. There is a significant shortage of conservation officers working in local government. A study for English Heritage and the Institute for Historic Buildings Conservation published in February 2003 estimated an average of 1.7 conservation officers per local authority (*Local authority conservation provision in England*, Oxford Brookes University). A report for the ODPM, Local Government Association and the Employers Organisation published in November 2004 reported that 30% of local authorities had identified a shortfall in conservation and heritage skills (i.e. an undersupply of staff with the necessary skills), exceeded only in development control and design. An insufficiency of posts and uncompetitive remuneration are other key factors in understanding the skills shortage in local government. Staff resources are stretched simply dealing with day-to-day planning issues, let alone policy development or hands-on management of council-owned heritage property. This hardly suggests a favourable climate for considering superior options to disposal when a property is already being considered for sale, especially as better management of council-owned property is likely to be highly demanding of precious staff time.

### ***Consideration of heritage assets in Asset Management Plans***

**4.27** Local authorities were asked whether their Asset Management Plan, or any other property strategy, gave specific consideration to heritage issues. Of the 19 authorities in England and 1 in Wales who answered this question, only one (Maidstone) did so (and one more expected its next AMP to do so). The survey of the websites of non-responding authorities provided further information relevant to this question (where their AMPs were available).

**4.28** Developing further the information in Table 2, the analysis of Asset Management Plans from websites (of those authorities which did not respond to questionnaires) found a somewhat more positive picture. Table 5 shows that 13 of the 51

AMPs on local authority websites mentioned heritage assets (about one quarter), and five of these referred to the disposal of such assets (as did the one mentioned in a questionnaire return).

*Table 5: Heritage assets in Asset Management Plans on websites*

<b>Category of local authority</b>	<b>Non-responding LAs with full AMP on website</b>	<b>AMP mentions heritage assets</b>	<b>Disposal of heritage assets mentioned</b>
CPA/Beacon (not BAR)	18	4	2
CPA/Beacon and BAR	12	3	2
BAR (not CPA/Beacon)	20	6	1
Total CPA/Beacon	30	7	4
Total BAR	32	9	3
England	50	13	5
Wales	1	0	0
England & Wales	51	13	5

**Notes:**

(a) An assessment was made of whether items mentioned in Asset Management Plans constituted heritage assets. Allotments, agricultural land and Best Value reviews of heritage assets were excluded; listed buildings, gardens open to the public, war memorials and woodland included.

(b) Disposals of heritage assets covers recent, current and anticipated disposals.

**4.29** The main findings both for England and for England and Wales together are:

- about one quarter of AMPs on websites mentioned heritage assets;
- from questionnaire responses and website AMPs taken together, about one in five authorities' plans (14 out of 71 for England and Wales) mentioned heritage assets;
- about one in ten of AMPs on websites mentioned disposal of heritage assets;
- from questionnaire responses and website AMPs taken together, about one in twelve authorities' plans (6 out of 71 for England and Wales) mentioned disposal of heritage assets.

**4.30** Whether or not an authority's AMP refers to heritage assets and their possible disposal need not be definitive of the authorities' actual actions. The analysis of recent and anticipated disposals below shows a higher proportion of those authorities who responded to questionnaires (direct mail and e-mail) engaged in disposals than revealed by AMPs. Alternatively, it is possible that there was a preferential response rate to questionnaires amongst authorities active in heritage asset disposals.

#### *Preference for disposal or retention of heritage assets*

**4.31** Authorities were asked in the questionnaires if they currently gave any preference to disposing of or retaining heritage assets (compared with other assets). Of the 20 authorities in England, 1 in Wales and 2 in Northern Ireland who answered this question, just one favoured heritage asset disposal over other assets. Maidstone BC's AMP comments that "The Council owns a number of heritage assets, listed buildings and ancient monuments. They are expensive to maintain and many of them have proved unsuitable for operational use. Some of them... have been let or sold in such a way that secures their future. The Council will continue to

explore similar opportunities in order to secure the future of other similarly threatened heritage assets" (paragraph 7.5).

**4.32** One authority was specific about its preference for retention, noting that restoration has finally been completed on a long-vacant listed building that was surplus to the authority's requirements. Another authority noted that heritage assets tend to have little value, so more valuable assets tend to be sold instead. Furthermore, Maidstone's preference for disposal is qualified: not only is disposal intended to 'secure the future' of assets, as noted above, but for assets which are extremely unlikely to be of commercial interest but still need to be safeguarded the Council commits in its AMP to exploring opportunities for grant funding, shared management with the community and engagement with the voluntary sector.

**4.33** The survey results show that responding authorities do not view themselves as seeking to dispose of heritage assets preferentially or if disposal would put those assets at risk. However, the responding authorities may not be representative. For example, Cumbria County Council has taken a policy decision for asset management reasons to dispose of a range of heritage assets, including significant heritage sites such as Birdoswald Roman Fort on Hadrian's Wall and Boot Corn Mill, Eskdale (Box 11).

#### **Quantities and types of recent and future disposals**

**4.34** This analysis distinguishes between recent disposals and future disposals by local authorities. There is a possibility that the pattern of past disposals may not reflect future pressures for disposal, for reasons such as:

- central government policies on the asset

- management as they affect heritage asset disposals are continually evolving;
- those authorities which have disposed of heritage assets recently may have fewer left to dispose of in future, and vice versa;
  - easier assets will probably be disposed of first, leaving behind the more difficult ones which may require special handling.

### *Survey results*

**4.35** The following tables distinguish the findings from the questionnaire surveys sent to targeted local authorities (a sample anticipated to be best able to explain their pattern of disposals and a sample considered likely to be generating the most problematic cases of surplus heritage assets) and those sent via the Institute for Public Finance to all

#### Box 11 · **Boot Corn Mill, Eskdale, Cumbria**

Boot Corn Mill is one of the oldest and best preserved watermills in Cumbria. It incorporates a full range of features including kiln, milling apparatus, bakehouse and miller's cottage. It is listed Grade II\* and dates to 1578. The mill is very atmospheric, retaining a true sense of place, unlike mills which have been 'tidied up' or subject to major restoration. As a building complex, the mill and cottage are prominent within both the village and the wider valley where historically the mill would have played a pivotal role within the subsistence agrarian economy.

As owners, Cumbria County Council has considered sale of the mill to The National Trust in 1991, 1999 and again in 2003. On each occasion, the endowment required to fund the long-term care of the property has been the main stumbling block to disposal. The mill has a negative value as its income is insufficient to pay for its upkeep. In 2003, the County Council carried out a major financial review with the intention of reducing its activities to core functions. One conclusion was to sell a number of heritage sites in their ownership, including Boot Corn Mill in Eskdale. The National Trust, National Park Authority and Friends of the Lake District all expressed concern, but the mill was placed on the market that September.

In June 2006, the mill is on the point of being sold to the Eskdale Mill & Heritage Trust, which was formed for the purpose and has received external financial and technical support. The group of buildings is being sold for a significant positive sum. This reflects mainly the value of the cottage, but the sale price is at less than market value in recognition of the liability of the accompanying mill. The terms of the outright sale restrict the use of the mill to its original purpose or as a visitor attraction, and the property cannot be sold without the consent of the County Council (who then have the right to reacquire it at the sale price).

The result is that the County Council will have disposed of a heritage liability for little more than a reduction in the sale price of an accompanying building. It has no future obligations in the site as it is not required to exercise its right to buy even if the new Trust were to fail. The heritage interest of the mill has not been secured, as there is no obligation built into the sale to require maintenance of the property, and there is no endowment to provide funds. Nor is there any obligation in the sale terms to open the mill to the public. If the Trust were to fail, the future of the mill would depend on the support of other voluntary and public bodies to rescue it.

local authorities. This distinction was intended to highlight any differences between authorities for whom heritage assets should be a familiar issue and a more random selection of authorities. In practice, as the tables in this section show, the pattern of responses from the two kinds of sources was broadly similar.

#### 4.36 From the direct mail questionnaire, 17

authorities identified heritage asset disposals within the last ten years. Of 23 authorities commenting on anticipated disposals, 9 expected these in the near future, 6 did not and 8 did not know. The e-mailed survey had 35 authority respondents, 13 identifying heritage asset disposals in the last five years. 18 expected disposals in the near future, 12 did not and 5 did not know.

Table 6: Recent and anticipated disposals of heritage assets by type

Type of heritage asset disposal (assets, except LA's in last two rows)	Recent (direct mail)	Recent (e-mail)	Future (direct mail)	Future (e-mail)
Places of worship	1	2		1
Historic Houses	2	2	2	1
Town Halls	2	2		2
Council offices in other buildings	2	3	3	
Smaller buildings (houses/offices) not covered in other categories*	5	12	1	8
Museums	1		1	2
Libraries		1		1
Courts		1		1
Historic schools	1	2		
Other accessible public buildings	3	1		2
Other specialised public buildings	2		1	1
Buildings associated with the movement of people or goods	1	2	1	2
Council housing, almshouses, etc	3	1		
Abbey remains, buildings, land	1			
Farm buildings, barns	1	2	3	1
Commons, woods, historic parks		3	2	1
Ancient monuments	1	1		
Urban open space			2	
Chattels	3			
Unusual structures	1	1		
Unspecified historic buildings	1	1	1	
Unspecified open space properties	1		1	2
<b>TOTALS (excl. last two rows)</b>	<b>30</b>	<b>36</b>	<b>16</b>	<b>26</b>

\* Some of these buildings may have been used as Council offices or for other council services.

**4.37** The types of heritage asset identified by both sources are set out in Table 6. Information has been taken from responding authorities without comment: the occasional council house or public convenience is assumed to have heritage merit because it was included by respondents.

**4.38** The information obtained from local authority Asset Management Plans from websites is not subject to the restraint that results are not attributed to individual authorities. The specific heritage assets disposed of by six authorities identified by analysis of AMPs can be specified more precisely. These are presented in Table 7 in a

form compatible with Table 6.

#### *Future and past heritage asset disposals compared*

**4.39** Are some authorities becoming newly active in heritage asset disposals so that across local government a pattern of disposals is likely to be sustained? If not, the disposable assets amongst existing active authorities would necessarily dry up in due course. Responses to the direct mailed and e-mailed questionnaires allow quantitative analysis of this, and comments volunteered by authorities help build a broader picture.

*Table 7: Recent and anticipated disposals of heritage assets (from AMPs)*

<b>Authority</b>	<b>Recent disposals</b>	<b>Future disposals*</b>
Bexley LBC	Hall Place and Danson Mansion (both 'historic houses')	
Leeds CC	Westroyd House ('historic house')	
Maidstone BC	Archbishop's Palace, Palace Gatehouse, Master's House (all 'historic houses')	Mote House ('historic house')
North Shropshire DC	War Memorial ('unusual structure')	
Shrewsbury & Atcham BC		Council office buildings

\* Described as such when the Asset Management Plan was published

**4.40** Information is given in Table 8 from those 57 authorities which replied to questions about both recent disposals and their plans for future disposals (where “don’t know” responses to possible future disposals are treated as “no” for this purpose).

*Table 8: Authorities with recent and/or anticipated heritage asset disposals*

<b>Authority heritage asset disposal pattern</b>	<b>No. of authorities</b>
No past disposal, no future disposals planned	21
Past disposals, no future disposals planned	11
Past disposals and future disposals planned	18
No past disposals, future disposals planned	7

**4.41** The figures show that 29 authorities have disposed of heritage assets in the past and 25 propose to do so in future. 18 authorities were common to both of those categories. However, as 28 authorities (half the sample) have never disposed of a heritage asset, there may be a reservoir of local authorities yet to be tapped (even though most of these currently have no plans to dispose of such assets). Some authorities may never have disposed of heritage assets as they own none: in particular this may affect the some Northern Ireland authorities which are much smaller than those in England and Wales.

**4.42** Comments offered in the questionnaire returns and on websites suggest that local authorities may be at different stages in their

experiences with disposals generally. Some authorities accept that they could do more to dispose of assets. For example, the Blyth Valley BC 2004 AMP states: “Council has accepted that it must give high priority to realising capital receipts, to provide much needed resources to support the various capital programme works and also to potentially reduce revenue costs” (paragraph 5.18). This may suggest that additional authorities will become more active in asset disposals, perhaps including heritage assets, as the scope of authorities currently active in disposals inevitably diminishes over time.

**4.43** Some authorities with a history of asset disposals are beginning to find disposals more problematic, and are resigned to accepting that disposals will be more difficult (Bexley LBC), less remunerative (Leeds CC), or need to be found from operational property rather than just non-operational assets (Southampton CC):

“The Council continues to do all it can to free up further assets for disposal but is now in a worse position than many authorities that have not actively pursued land disposals in the past. Having sold most of the ‘easy’ sites, the sites identified for disposal are generally not straightforward and the timescales for their disposal therefore much harder to assess with accuracy. The level of estimated capital receipts over the next 3 years is approximately £8m” (Bexley LBC, 2002 AMP, page 16).

“Capital receipts from the sale of Council land and property has proved to be a significant source of capital funding over the past six year period. The Council generated over £25m from capital receipts in 2003/04 alone. However, partly due to the success of past capital receipt programmes, the Council now has a diminishing number of properties that are suitable for disposal. The forecast for capital receipts for 2007/08 to 2008/09 is only £10m” (Leeds CC, 2005 AMP, section 9).

“The Council is now reaching a position where there are fewer non-operational properties to dispose of (without having a significant impact on revenue generation) and will need to consider operational property rationalisation more and more as a means to identifying savings and opportunities for receipts” (Southampton CC, 2004 AMP, paragraph 19).

**4.44** At one the end of the spectrum, Runnymede BC commented:

“The current financial standing of the Council is in part due to the realisation of the value in its assets over many years. There is therefore very limited scope for further major disposals” (Asset Management Plan 2003, section 4).

**4.45** At the other end of the spectrum, the Council for National Parks drew the study’s attention to the Peak District National Park where a programme of asset disposals had just come into prospect. This authority announced in June 2005 that it was:

“carrying out a major review of its properties and is inviting involvement from others in future property management arrangements. The Authority’s wide ranging property portfolio includes moorland estates, historic buildings, farms, woodlands, walking trails, visitor centres and car parks. With a history stretching back to 1951, the circumstances that led to some of the Authority’s acquisitions may have altered and therefore an extensive review process is going on to streamline the portfolio to meet current needs” (PDNPA press release, 13th June 2006).

## **Findings**

**4.46** The main findings are:

(i) The scale of heritage asset disposals in the near future is likely to be similar to that of the recent past: 33 authorities had disposed of 72 named assets

in the last few years (one authority accounted for 16 of these), and 29 expected to dispose of 43 named assets shortly (including information from AMPs but avoiding double-counting)<sup>12</sup>.

(ii) The types of heritage asset which local authorities expect to dispose of in the near future are remarkably similar to those disposed of in the recent past. There is therefore no evidence, across local government as a whole, of a switch of disposals to more problematic or less remunerative heritage assets (though the experiences of the authorities noted above indicates that this is likely to happen within individual authorities).

(iii) Buildings dominate the types of heritage asset being disposed of, together with some land; disposals of chattels are infrequent.

(iv) Disposals past and future include some major properties, such as 12 substantial historic houses, 5 Town Halls, an Assembly Rooms, a corn exchange, a theatre, various libraries, schools, museums and churches/chapels; in rural areas disposals include a motte and bailey castle, an abbey, an archbishop’s palace and an historic park.

(v) There were nearly as many authorities expecting to dispose of heritage assets in future as disposed of them in the past, even though authorities already active in disposals accounted for over 70% of those expecting to do so in future. Various authorities with established disposals programmes recognise that continuing with them will become more difficult or impossible.

(vi) Half the sampled authorities providing full information had not disposed of any heritage asset in recent years, and well over half the total sample had no immediate plans to do so. Setting aside a few authorities possessing few or no such assets, this suggests that there may be significant potential for

future disposals (even if authorities are not currently anticipating this). Some authorities recognise that they could dispose of more assets.

### Reasons for recent and future disposals

**4.47** The questionnaires to local authorities circulated by both direct mail and e-mail asked why heritage assets had been disposed of or were planned for disposal. The responses are summarised

in Table 9 for assets for which effective responses were provided<sup>13</sup>, together with a very limited amount of information from Asset Management Plans on authority websites. The table indicates the reasons given for each asset disposal, and includes multiple reasons in a few cases where these were given, so 116 reasons are stated for the disposal of 101 assets. Very little difference is shown in the kinds of reason given for past and future disposals.

*Table 9: Reasons for the disposal of heritage assets by local authorities*

Reason for disposal of heritage asset (nos. of assets)	Recent	Future
Asset in poor condition/LA unable to afford repair or maintenance:		
(a) General	10	7
(b) Maintenance liability problem particularly	*29	6
(c) Restoration to new use proposed	2	2
(d) Specific cost of compliance with Disability Discrimination Act	0	3
New owners will have access to funds not available to LAs	3	0
Private sector expected to have money/skills to tackle assets better	1	3
Property under-utilised, or service relocated/no longer needed	8	6
Specific aim to achieve public objectives rather than financial gain	4	2
Taking a capital receipt is most economic option	1	2
Raising capital for the purposes of the property being disposed of	3	5
Raising capital for other local purposes, i.e. financial gain	5	0
Development opportunity	3	5
Cost of the property exceeds its income	0	1
No suitable alternative use can be found (due to nature of property)	1	1
Museum to house chattels did not materialise	3	0

\* 16 in one authority

**4.48** The overwhelming central reason for the disposal of heritage assets is the lack of resources in local government to maintain them, especially if a backlog of repairs builds up and their condition deteriorates so that a significant financial injection is needed to return them to a ‘fit for purpose’ standard. This was a stated reason in 58% of all disposals. The survey results were reinforced by comments made informally by local authority conservation officers about difficult and expensive properties which their councils were keen to dispose of, ranging from a post-mill to a salt mine. Disposal is therefore triggered not so much by a desire to cash in the value of a heritage asset but by a desire to limit further financial liabilities. It is clear that this applies to operational buildings and land as much as to non-operational assets. Occasionally the financial burden is made worse by specific obligations, such as adapting buildings to meet the requirements of the Disability Discrimination Act.

**4.49** An authority may have no real desire to dispose of a heritage property as a matter of principle but simply does not have the spare resources to justify refurbishment and other costs, even if the authority could use the property subsequently or manage it for relevant public purposes. This is reinforced in a few cases where the use of the property after disposal was anticipated to be the same as it was beforehand. There is a clear need for better maintenance of assets across local government to reduce significantly over time the case for heritage asset disposals, as well as saving local authorities money in the long run.

**4.50** A range of heritage properties became surplus to local authority requirements and were sold as no other appropriate local authority use for them was apparent. Some cases were more extreme than others: an airfield control tower clearly cannot be re-used for its original purpose (and the one reported was sold for conversion to holiday

accommodation). Relocation of existing uses arose on various occasions, such as a museum and a Magistrates Court. To this can be added numerous properties that were ‘underused’ prior to disposal, resulting in properties being used inefficiently: relocation of existing activities to more efficient locations would free the property for disposal. There is a possibility that vacancy and under use could be cultivated by local authorities, such as by the relocation of existing uses, in order to create the circumstances in which the disposal of these (relatively expensive to maintain) heritage assets was justifiable. Alternatively, the recent activity may simply have been a poor use of the heritage asset.

**4.51** There is evidence of different imperatives. In most of the cases reported via the survey for which evidence is available, local authorities appear to have acted responsibly to maintain the heritage interest in properties as part of their disposal. Some Asset Management Plans emphasised the determination of local authorities to invest in heritage assets, including in relatively poor locations, rather than seek to dispose of them, as the examples in Box 12 illustrate.

**4.52** Some authorities specifically identified public benefits as the reason for disposal, in which the heritage interest was a primary beneficiary. For example, the disposal of Hall Place and especially Danson Mansion by Bexley London Borough Council to a heritage trust has achieved spectacular results (see Box 13). Other benefits of disposal for the asset itself mentioned by local authorities were:

- the recipient bodies could tap into sources of funds which were unavailable to the disposing authority;
- scope for creating worthwhile new uses for heritage buildings;
- generating cash which could be ploughed back into the fabric or management of the property

- being disposed of; and
- bringing in new sources of finance and managerial skills from the private sector (or other, usually local, managers).

**4.53** Although these arguments might on occasions be viewed as putting a brave face on inevitable disposals, that is not to deny the benefits claimed. (A more challenging question is whether disposal would have gone ahead if the option had been available of the local authority achieving all these benefits with its own resources.) There is an additional question about the new uses found for some buildings in the name of saving their heritage interest. Numerous cases were identified from the sampled authorities where large historic buildings,

mostly designed originally as single residences (but including a Guildhall, a school and a school principal's house) were sold not for their original use or an alternative with public access but converted to private flats<sup>14</sup>. These cases by definition satisfied local planning requirements, and were superior to the demolition sometimes considered as an option, but perhaps fall short of purist ideals for using historic buildings for the purposes for which they were originally designed. The cases nonetheless show that local authorities often make genuine efforts to secure the future of heritage assets through the disposal process. The methods they use and the consequences are explored in more detail in the following section.

#### Box 12 · Local authority commitment to investment in heritage assets

##### Merton London Borough Council

The authority's Asset Management Plan for 2002/03 discusses progress at two difficult heritage sites, avoiding the disposal option:

- "Heritage Lottery funded redevelopment of derelict listed building for Registrar's Office, leading to a stunning and appropriate setting for registrations and marriages together with significant savings on use of leased accommodation" (page 5).
- Against a strategic objective of 'continuing community use of listed Heritage Centre building', the AMP states that this "oldest building in Mitcham requires up to £1.25 million investment to resolve structural problems and sympathetic treatment of internal decorations. Public use now restricted" (page 21). The main stated option for 'bridging the gap' is to seek Heritage Lottery funds. Community education is being considered as a long term use.

##### Redcar & Cleveland Borough Council

The authority's Asset Management Plan 2004 states that one of its eight priorities is to "Maintain and improve the local environment and protect our heritage". As part of this, "Kirkleatham Village regeneration is a £22m heritage led regeneration scheme. Its main priority is to ensure that the listed buildings in Kirkleatham which are currently on English Heritage's "Buildings At Risk Register" can be protected for future generations. During 2004/05 the authority aims to establish the financial viability and feasibility of the regeneration strategy. If deliverable the Council would seek to secure a development partner with a view to commence construction in 2007." In practice the delivery of this intention has been delayed, though the council remains committed to the principle.

### Box 13 · Disposal of heritage assets to a Heritage Trust

Bexley London Borough Council's Asset Management Plan of 2002 describes a current initiative to transfer the management of two of the Borough's principal heritage buildings to a specially created trust. Bexley Heritage Trust took over management of Hall Place in 2001 "and a long term vision is now being developed taking account of commercial opportunities to generate much needed funds to protect and enhance this Grade I listed building and its park and to make the property more accessible for the public" (page 4). The restoration of Danson Mansion, also Grade I, to its former glory was completed in 2005 to national acclaim:

– "dragged back from a vandalised shell on the brink of collapse in a £4 million restoration" (The Guardian 23.3.05);

– "After 30 years of dereliction Danson House has been saved.... But as recently as 1995 the house was in a parlous state. Many of its fine fixtures had been removed, without listed building consent, to a container in Dagenham, where HM Customs & Excise recovered them. Half a dozen proposals had, during the previous 15 years, come to nothing. That the building survives at all is due to the efforts of campaigners in the London Borough of Bexley. SAVE's Marcus Binney publicised the house's plight, but it was English Heritage's controversial chairman, Sir Jocelyn Stevens, who took the brave decision to commit public funds to putting things right" (*Country Life* 24.3.05).

**4.54** In contrast to these efforts there is also evidence of financial interests and other local authority services taking priority over heritage on some occasions. From the survey returns, two authorities calculated that their financial best interest lay in taking a capital receipt from the sale (between them) of three large dwellings (two of which were converted into flats), rather than receiving a rent stream (one case) or investing in the backlog of repairs to the buildings (two cases). Another authority sold two urban open space properties because it saw the opportunity to develop one-stop shop facilities on them for 'improved services to the community', and another authority disposed of five heritage buildings where capital receipts were a major reason. (Most other development opportunities arose in association with regeneration activities in the locality.) Of the

four authorities referred to, two were rated 'Excellent' in their Continuous Performance Assessment and two were not. At least three of the four had Buildings At Risk in their areas (the fourth being a County Council where this point is uncertain [see endnote 1]).

**4.55** A series of other problematic cases have become apparent outside the scope of the survey of local authorities, particularly in respect of mansions in public parks. There are numerous instances in which local authorities wish to retain the parks around mansions (often landscape parks of considerable heritage interest) but dispose of the buildings (which are often listed at high grade). English Heritage has identified a problem of weak management and significant under-investment in the fabric of mansions in public parks in Greater

London, but the problem is much more widespread than this. Numerous cases have been identified in the East Midlands, for example, such as Kingsthorpe Hall (Box 14). There is evidence of an alarming reluctance of some local authorities either to invest in the proper maintenance of heritage properties in their care or in some cases even to seek new futures for them based on appropriate and economically viable long-term functions. Retaining the grounds of large buildings while disposing of the buildings themselves can in some cases effectively remove the prospect of the most sympathetic uses being found for the buildings (noting the national planning policy that the most appropriate use of a listed building is often the one for which it was originally designed [Planning Policy Guidance note 15, *Planning and the Historic Environment*, 1994, paragraph 3.10]). Disposal in these cases is viewed largely as offloading a liability, assuming they either have a positive value in the market or can be grant

aided (e.g. by the Heritage Lottery Fund) to give them a new lease of life in a mixture of public and private uses.

## Impact of disposal on heritage assets

### *Recipients of local authority heritage assets*

**4.56** The questionnaires to local authorities circulated by both direct mail and by e-mail by the Institute for Public Finance asked to whom heritage assets had been disposed of recently. The results are summarised in Table 10 for the 66 heritage asset disposals for which information was provided.

**4.57** Many respondents were more precise about the recipient. The large majority of private sector recipients were commercial bodies and developers, with a few private individual owners. The public

### Box 14 · Kingsthorpe Hall, Northampton

Kingsthorpe Hall was built in 1775 and is listed Grade II\*. In recent years the building has been in community use by Northampton Borough Council, but high levels of radon gas were detected in the cellars and the occupants moved out. The hall became vacant and was damaged by an arson attack in 2002 (though the insurance money was used to mend the roof). It is now on English Heritage's Buildings At Risk register.

Northampton Borough Council wished to sell the hall but retain the registered park and grounds. The Council insisted on selling the hall without leaving with it even the adjacent private gardens. This inevitably meant that the hall could not be sold for its original use in single occupancy and would be likely to be divided into flats. However, in a move

aimed more at maximising revenue than protecting the heritage interest, the Council disposed of the hall (including the stable block and a little other land) by sealed bid. The package was acquired by a local developer. Planning permission and listed building consent have been granted subject to a section 106 legal agreement (as at July 2006) for the conversion of the stable block and house into flats and for new residential building nearby. There is no financial assistance for its repair from the Borough Council, nor did the sale require profits from the other dwellings to be recycled into the hall (as 'enabling development'). Meanwhile, the radon gas problem remains. The developer has offered the hall onto the market separately, confirming its uncertain future.

Table 10: Recipients of local authority heritage assets

Sampling method	Private sector	Public sector	Voluntary sector
Direct mail	17	4	9
IPF e-mail	*26	3	7
Totals	43	7	16

\* 16 in one authority

sector recipients included one District Council (from a County Council), three Town Councils and two Parish Councils. The voluntary sector recipients were stated as one registered social landlord, one registered museum, one archaeological trust, seven building preservation trusts/charitable trusts (including one ‘preservation group’) and six charities (including one limited company with charitable objectives). (The distinction between charitable trusts and charities may be artificial in some cases.)

#### *The commercial motive in heritage asset disposals*

**4.58** The evidence from Table 10 suggests that in more than one third of disposals the level of commercial motive on the part of the local authorities was probably modest, if any, in that these assets went to public and voluntary sector bodies who would not have been seeking a profit. Sales of assets to the private sector at less than market value would also suggest that maximisation of receipts was not the primary objective but that heritage interests had a role in the disposal process.

**4.59** Information was sought on the degree of authorities’ commercial imperative: they were asked whether assets were sold for below their

unconstrained market value (e.g. with arrangements to protect their heritage value which as result depressed their price in the market), and if they were also sold for less than ‘best consideration’ (i.e. with a gift element, as a sub-set of ‘below unconstrained market value’). Government Accounting Rules allow for both these opportunities (within limits). In practice, local authorities explaining their disposals at less than best consideration usually provided sufficient information to identify cases where the assets had nil or negative value, and disposal was assisted in some way. The results are indicated in Table 11.

**4.60** Table 11 shows that the large majority of assets were sold at market value, regardless of the recipient.

**4.61** One in eight of the heritage assets disposed of were financial liabilities, either incurring a maintenance cost in excess of their income, or having a significant negative value because of the cost of repairing them to a satisfactory condition. All were disposed of into the public and voluntary sectors. These were:

- an archaeological monument transferred to an archaeological trust;

- an archaeological monument sold to a Parish Council for £1;
- a coastal headland and valley sold to The National Trust for £1;
- a granary gifted to a preservation trust;
- a Town Hall transferred to a Town Council for use as an arts centre with a grant from the disposing authority;
- a Town Hall granted to a limited company with charitable objectives on a long lease at a peppercorn rent and with an ongoing liability for external repairs by the disposing authority;
- Town Council offices sold for a nominal sum to the Town Council, where the cost of the substantial repairs required considerably exceeded the value of the building;
- a toll house transferred to a District Council with a ‘dowry’ of £27,000 as a contribution to significant repair costs<sup>15</sup>.

**4.62** The other properties sold with a gift element were:

- a building dating from the 16th century to be refurbished for public viewing and functions; and
- a Bluecoat School to be used for community purposes.

**4.63** Only two assets in the sample were sold into the private sector at less than market value, and one more into the voluntary sector. In one private case a property hitherto used as a museum was sold to a firm, supported by public bodies, which provided business start-up premises (as a result of a tendering process allowing only a limited range of uses of the property). In the other private case, completion of a schedule of heritage-related works was required from a developer acquiring former almshouses.

*Table 11: Financial considerations in the disposal of heritage assets*

Sampling method	Recipient	Financial considerations on disposal by local authority				
		Not applicable (e.g. on long term loan)	Sold at market value	Sold for less than market value		
		Sold @ < best consideration				
		Nil/negative value				
Direct mail	Private sector	0	15	2	0	0
	Public/voluntary sector	2	5	6	5	4
IPF e-mail	Private sector	0	26	0	0	0
	Public/voluntary sector	0	5	5	5	4
<b>TOTALS</b>		<b>2</b>	<b>51</b>	<b>13</b>	<b>10</b>	<b>8</b>

Finally a house in large grounds was sold to a religious charity requiring that the property be opened to the public once a year and with a restrictive covenant in favour of The National Trust.

**4.64** In conclusion, eight of the thirteen heritage assets disposed of by local authorities at less than market value were liabilities. One authority at least was apparently seeking to avoid further expenditure, and clearly could only achieve this through a disposal into the public or voluntary sector (as the private sector would not have taken such assets). The asset disposals into the public and voluntary sectors were otherwise motivated in part by concern for heritage. When the two assets sold to the private sector at less than market value are added to this, the total number of heritage assets disposed of where the commercial motive was likely to have been moderated by heritage interests sum to 25 (38% of 66 disposals).

### *Securing protection of heritage interest in assets disposed of*

**4.65** As well as finding suitable recipients for heritage assets, or as an alternative to this, local authorities may take special measures as part of the disposal process to secure heritage interest. Local authorities were asked in questionnaires what steps they had taken with disposals in the recent past. The measures identified by authorities are itemised in Table 12. However, cases are ignored where authorities indicated only that they were reliant on planning powers to secure effective controls: these would have applied to proposed changes of uses of land or buildings, or other development, whether the asset was disposed of or not, and reliance on this alone hints more at the moderation of undue damage rather than a positive step to secure benefit.

*Table 12: Steps taken by authorities to protect heritage assets on disposal*

Heritage protection requirements	Private sector		Public/voluntary sector	
	Direct mail	IPF e-mail	Direct mail	IPF e-mail
Repair and maintenance	6	1	3	
Control of subsequent uses	2		3	2
Control of the conversion		*1		
Opening to the public	1	1	1	
No change			1	
Scope to revert to vendor (loan or long lease)	3		2	
Total no. of assets affected	8	2	8	2

\* This case involved an unlisted building where the conversion process was controlled by the local authority under licence. An alternative method more often used for this kind of temporary control (until the change to the asset has been secured through development) is by means of a planning brief. Another authority which had disposed of 16 properties indicated that it used planning briefs where necessary.

**4.66** Table 12 shows that ten disposals of assets to the private sector included special measures by the local authorities to secure their future heritage interest. Of these, five were described by the disposing authorities as not involving any further financial consideration (i.e. they were said to be sold at market value). While there must be some question as to whether these cases might more accurately have been described as being sold at less than market value, they nonetheless give a further indication of authorities' efforts to secure heritage interest in assets subject to disposal. They bring to 30 (45% of 66) the total number of heritage assets disposed of where the commercial motive was likely to have been moderated by heritage interests.

**4.67** Table 12 also shows that four times as many authorities responded to the direct-mail questionnaire of a sample of local authorities than to the short e-mailed questionnaire sent to them all. Great caution should be taken when considering such small samples, but there is a hint that there was a tendency for respondents to the direct-mail questionnaire to have a more proactive record than average in handling heritage asset disposals.

**4.68** The remainder of the heritage assets were disposed of to the private sector at market value without any special measures to secure their heritage interest. Normal planning controls would have applied in cases where development was involved, and some authorities indicated that they considered this sufficient. There is, of course, no reason why heritage assets cannot be bought and sold at market value and move from one caring owner to another. The one possibility explored for this study, in the questionnaires direct-mailed to the chosen sample of local authorities, concerned the results for the heritage asset after disposal. The responses are presented in Table 13.

*Table 13: The impact of local authority disposals on heritage assets*

Recipient	Satisfactory outcome	Problems arose	Result unknown	Too early to say
Private sector	16	1		
Voluntary and public sectors	7	2	1	3
Total	23	3	1	3

**4.69** The main finding from Table 13 is that few problems have arisen with heritage asset disposals, albeit that this is a small sample of 30 assets for which information is available. In one case where a building had been sold with a gift element to a Parish Council the property was still vacant and funding was being sought. In another case, in which the disposing authority had provided financial assistance to the recipient District Council, repairs had been completed but the property was still not open to the public. Finally, in the case of a sale into the private sector, the new owner (a private individual) appeared to be having problems similar to the disposing local authority: the building continued to be vandalised and remained in a poor condition.

**4.70** In the case of the two public sector assets where there were still problems after disposal, the local authorities had taken sensible steps to protect heritage interests but problems nevertheless remained, though they might well be overcome. This serves to illustrate how awkward some heritage properties can be to manage effectively. However, the disposal to a private individual had taken place at market value without any specific measure to ensure the protection of its heritage interest. In mitigation, the authority had made earlier efforts to secure a new use for the property, in discussion with the Environment and Heritage

Service, though unsuccessfully, and the positive sale price would have suggested that a satisfactory outcome was in sight. This is the only specific case identified by the questionnaire survey where a heritage asset is in a worse state after disposal than it was before, with the local authority having in effect passed on its responsibilities and to some degree lost control: only a Repairs Notice and, if necessary, a Compulsory Purchase Order could recover control over the property to the authority.

#### 4.71 Other problematic disposals by local

authorities were identified by the voluntary sector. The Ulster Architectural Heritage Society identified various cases. Two particularly unfortunate ones are described in Boxes 15 and 16, where the heritage assets are now in a more precarious state than prior to disposal. This is in the context of local councils in Northern Ireland being much smaller bodies than in England and Wales, responsible for just 4% of public expenditure and their holdings of land and buildings are correspondingly modest.

#### Box 15 · Milford Manor House, Armagh

Armagh City and Borough Council sold Milford Manor House to a developer who in turn passed it on. No conditions to protect the heritage interest of this building were imposed, and three years later a new use is still being sought. This 19th century building was the home of William McCrum, inventor of football's penalty kick. The house had a number of very fine interiors and an elaborate range of glasshouses which ran out at right angles

from the middle of the front facade. There is a suggestion that the long main avenue was once noted for being the first in Ireland to be lit electrically, but now the avenue is closed, the trees and lamps have been removed, the glasshouses have gone, the fireplaces have been stolen and the interiors are extremely vulnerable to ongoing deterioration. Vacant for over ten years, the building is on Northern Ireland's Buildings At Risk register.

#### Box 16 · Cairndhu, County Antrim

Cairndhu, Ballygalley was built about 1880 and subsequently extended. Used as a private home until 1949, it was then gifted to the people of Northern Ireland for use as a convalescent home. That function ceased and the building was sold, first to Larne Borough Council and then to a private buyer. The dilapidation of the complex has been of concern for more than a decade. The property became infamous for being the first in

Northern Ireland where in 2003 Urgent Works Notices were served on both the main house and the derelict stable block to the rear, requiring the owner, Diljit (now Lord) Rana to repair these listed buildings. The property has recently been sold again and lost many interior features in the interim period. The gate lodge at Cairndhu is also on the Buildings At Risk register.

## Role of heritage issues in asset disposals

**4.72** The previous section focused on heritage assets and the steps taken to address their individual interests when local authorities disposed of them. This section examines the broader approach of local authorities to managing their heritage assets. It considers authorities' responses to problematic heritage assets in their ownership (where disposal might be an option), the quality of the procedures they follow when considering the handling of surplus heritage assets, and the strength of the links between the parts of authorities responsible for asset management and for heritage interests.

### *Managing problematic heritage assets*

**4.73** The questionnaire by direct mail asked local authorities a series of questions to establish if they owned heritage assets which posed financial difficulties or were at risk, and, if so, how the authorities responded to the problems (Part 2, Q4). These were assets which the authorities currently did not expect to dispose of, and therefore required a management response, but which might possibly be candidates for future disposal.

**4.74** The assets affected and the responses to each question are listed in Table 14. However, the list of buildings may be incomplete from responding authorities. There are nine responding authorities in whose areas English Heritage lists Buildings At Risk in local authority ownership: the omissions imply that they are all owned by other authorities within the areas controlled by the responding authorities.

**4.75** Table 14 identifies six heritage assets deteriorating or at risk in the sample. In four of these cases, as well as in the large majority of other cases of financially problematic assets, the local authorities are actively seeking solutions to the

difficulties. However one authority owning a church and another owning a castle (and also a countryside estate) do not appear to have a strategy for addressing the heritage problems they have identified. Aside from these cases, Table 14 broadly paints a picture of authorities striving to look after their heritage assets so far as resources allow, though large sums of money may be beyond authorities' capacity. The voluntary sector and to a lesser extent the National Lottery appear as the main partners sharing the load in these cases.

**4.76** To pursue this further, the questionnaire by direct mail asked if local authorities had used fund-raising measures dedicated to supporting a heritage asset which they had retained, and for an explanation if they had. Table 15 gives the results.

Table 14: Local authority responses to problematic heritage assets

Assets with a negative value	Assets costing more to manage than their income	Intangible benefits outweigh the costs?	Is the asset deteriorating or at risk?	The authority's response to problems
	Castle	Yes	Yes	Seriously concerned, bids to Lottery Prepared to spend money on remedial work: £85,000 recently to address poor quality repairs from 1950s/60s
	Building	No	No longer	
	Building	No	No	The Council retains some liability to repair buildings beyond tenants' ability
	Crane	No	No	Seeking an appropriate user
	Custom House	No	No	
	Monument	Yes	No	No comment
	Countryside estate	Unable to advise	No	Minimal maintenance
	Chapel	Yes	Not known	Properties monitored and kept under review in terms of viability, ownership and repair
	Ironworks	Yes	Not known	Recently opened with artefacts acquired: little direct income
	Workmans Club	Yes	Not known	
	House	Yes	Not known	
	Museum	Yes	No	
	Statue	Yes	No	No comment
	Countryside estate	Unable to advise	No	Minimal maintenance
Castle		Unable to advise	Yes	No comment
Church		No comment	Yes	
Volunteers Memorial		Yes	Yes	Scheme of restoration in preparation
Beacon		No comment	Yes	Will repair subject to funding: even surveying requirements is costly
Canal		Yes	Yes	Leased to charitable trust: fundraising assisted
Windmill		Yes	No	No comment
Corn Exchange		No	No	Leased to management trust at peppercorn rent + grant aid
Building		Yes	No	Disposal not always possible or desirable: make best use of assets within resources available
War memorial		Yes	No	"With consideration and reflection on budget provision and the service to the public these heritage assets provide"
Churchyard steps and walls			No	
Gates and gate piers			No	
Gates opposite hotel			No	
Memorial clock tower	Yes		No	
Walls			No	
Section of Town Wall			No	
Queen Victoria Memorial Statue		Yes	No	
Butter cross			No	
Steps, rails and terrace			No	

Table 15: Fund raising by local authorities to support heritage assets

Country	Fund raising used	Fund raising not used	Don't know
England	*9	9	1
Wales			**1
Northern Ireland	2	1	
Total	***11	****10	2

\* Includes one authority which expected to use fundraising in the near future and one which had assisted other bodies in their fundraising for heritage assets.

\*\* Considered a matter for the Planning Department not Property Department.

\*\*\* Four of these authorities have not disposed of heritage assets recently (and three of them do not expect to do so in the near future): they nevertheless hold heritage assets with financial needs and are addressing these.

\*\*\*\* Four of these authorities remarkably have no cause for fundraising because they have:

- disposed of no heritage assets recently;
- expect to dispose of no heritage assets in the near future; and
- own no heritage assets with a negative value or which cost more to manage than the income they generate.

**4.77** Whether or not they were involved in fundraising, most authorities responding had been active in other ways to secure the heritage interest in assets disposed of (aside from the exceptions noted in the footnotes to Table 15). There were two exceptions. One authority which had fundraised had also disposed of an asset which then became

more of a problem than it had been beforehand (the only recorded instance of this in the sample). The one authority which had not fundraised had a particularly poor record of heritage asset management as it:

- disposed of a heritage asset recently without any special measures to secure its interest (and gave no reason for this disposal);
- lists only ‘financial reasons’ for wishing to dispose of assets in future;
- relies on ‘minimal maintenance’ rather than any more proactive method of addressing the problems of its heritage assets which have a negative value or which cost more to manage than they generate (and which in one case is deteriorating or at risk);
- does not discuss biodiversity with English Nature, even though the assets it proposes to dispose of in future are rural open space ones (see below);
- is unfamiliar with Government guidance on disposing of heritage assets (see below).

#### *Procedures for evaluating surplus heritage assets*

**4.78** Authorities were asked whether they discussed potentially surplus heritage assets with relevant Government advisory agencies as appropriate, namely Cadw or the Countryside Council for Wales (in Wales), the Environment and Heritage Service (in Northern Ireland), and English Heritage, English Nature or the Countryside Agency (in England)<sup>16</sup>. This covered whether they had done so in cases of recent surplus assets or would do so in cases of future surplus assets. Authorities which specifically indicated that they knew that they did not own (and have not owned) any heritage assets which might possibly be surplus were excluded from this analysis. The results from those who responded are given in Table 16.

Table 16: Local authority reviews of surplus assets with heritage agencies

Sampling method	Discussion with agencies	No discussion with agencies	No response
Direct mail	*13	6	**2
IPF e-mail	23	6	4
Total	36	12	6

\* Includes two authorities which stated that they took alternative expert ecological advice, and one which indicated that planning staff had such discussions even though the Property Department did not.

\*\* These respondents consider the question not applicable to them.

**4.79** Authorities in England were asked if they followed the official Government guidance on the disposal of heritage assets published by DCMS, ODPM and English Heritage (in *Managing local*

*authority heritage assets*, June 2003), and if they found it helpful<sup>17</sup>. There is no equivalent guidance in Wales or Northern Ireland. The results from those who responded are given in Table 17.

Table 17: Role of Government guidance amongst asset managers

Sampling method	Guidance followed/helpful	Guidance not helpful	Not familiar with guidance	Don't know
Direct mail	7	2	8	2
IPF e-mail	8	3	***18	*5
Total	15	**5	26	7

\* Includes two authorities which stated they had no need to use it.

\*\* Includes two authorities which specifically criticised the guidance as unrealistic. One of them commented that “the report was somewhat overcritical and raised unrealistic expectations as to a local authority’s role as custodian of heritage assets. We are simply not funded sufficiently to be able to manage these as we would wish.” The other stated “it wasn’t particularly realistic in commercial terms. English Heritage et al have to realise that the future protection of these buildings is by allowing ‘profitable’ but sympathetic uses. We are continuing to experience difficulties in this respect.”

\*\*\* Two asset managers were grateful for being alerted to the existence of this guidance.

**4.80** The results from Tables 16 and 17 are striking: two thirds of authorities say that they do or would consult the relevant Government heritage agency if a surplus heritage asset arose, but about two thirds were also unaware of the main Government

guidance on the issue. The most favourable interpretation of these findings is that those responsible for asset management want to do what is right for heritage assets but that their teams often leave detail like the practical guidance to others<sup>18</sup>.

The findings on familiarity with the guidance are a significant indication of the separation which can arise between the heritage and asset management functions in local government. One authority candidly responded to this question that the process is driven by the Council's Asset Management Strategy: from discussions and other comments offered, this practice appears to be widespread.

### *Perspective of the heritage agencies on heritage asset disposals*

**4.81** A modest amount of information was supplied by English Heritage, but no other agency provided a view on local authorities' disposals of heritage assets. The English Heritage perspective was supplied by the East Midlands region. (Responses were not provided to the questionnaire circulated, but further investigations identified some issues of interest.) Here the disposal of heritage property was considered a major issue for English Heritage. No further information is available to reinforce this elsewhere or to identify this as an unusual region, and English Heritage does not collect information centrally.

**4.82** English Heritage in the East Midlands drew attention to a variety of historic buildings and parks where problems had arisen in association with the disposal process (paragraph 4.55)

**4.83** The reason for the paucity of information provided by the statutory agencies on local authority heritage asset disposals was unclear. It is possible that there is no issue worthy of these agencies' attention, but this was not a conclusion that they could demonstrate (or sought to). Another possibility is that there is a lack of information for want of a straightforward mechanism for collecting and organising it. There is no local authority equivalent to the English Partnerships' *Register of Surplus Public Sector Assets* in central government (so

the pilot expansion of this register is all the more valuable, see paragraph 3.75). Nor is there any anticipation that local authorities will seek advice from English Heritage (or any other agency) or provide information in a manner equivalent to the biennial requirement for Government Departments under the Green Minister initiative. What became clear was that disposal of heritage assets by local authorities was not an issue to which the statutory heritage agencies currently devote much attention. The staff of national agencies would surely have been at least aware of any significant initiative by their regional colleagues in this regard, but almost no cases were known to them.

### *Local authority performance: review and conclusions*

**4.84** The hypothesis which this study attempted to test in the selection of sample local authorities in England was that there was a difference in the standard of performance in the treatment of heritage assets between those with high standards of asset management and those with Grade I and II\* Buildings At Risk within their areas. The small number of replies (25), and the possibility of the more competent having responded, makes analysis unreliable. Nonetheless, Table 18 presents such information as is available across a range of six performance measures. The options in each case are that the authority has achieved the measure (Yes), has not achieved the measure (No), the measure is not applicable (N/A), or there was no response on an individual point (N/R). 'Good asset managers' and 'Buildings At Risk' authorities are defined in paragraphs 2.9 and 2.10 above respectively. Responding authorities were included in the analysis if they specifically answered at least two of these questions (as a result of which, six authorities who only made very brief responses to the questionnaire were omitted).

**4.85** Table 18 shows that authorities on average took positive steps to secure the heritage interest in assets in about two thirds of the opportunities available. There is little difference between the performance of local authorities in their treatment of heritage assets, regardless of whether they might be expected to be good asset managers or to be

troubled by the presence of Buildings At Risk. This finding can be set alongside previous findings that there was little difference between ‘good asset managers’ and ‘Buildings At Risk’ authorities in terms of their reference to heritage assets in their Asset Management Plans (see Table 5).

*Table 18: Local authority performance in heritage asset protection*

Performance measure	Good asset managers (not BAR)				Buildings At Risk (not good AMs)				Good asset managers Buildings at Risk			
	Y	N	N/A	N/R	Y	N	N/A	N/R	Y	N	N/A	N/R
19 local authorities)	Y	N	N/A	N/R	Y	N	N/A	N/R	Y	N	N/A	N/R
Does not specifically favour disposal of heritage assets	7				9				2	1		
Follows Government guidance on heritage asset disposal	3	3	1		2	5	2		2	1		
Discusses surplus heritage assets with heritage agencies	4	2	1		4	3	1	1	2	1		
Problematic heritage assets owned but not deteriorating or at risk	2	2	3		2	3	2	2		2	1	
Has acted to secure the heritage interest in assets disposed of	4		2	1	3	1	4	1	3			
Has fundraised for heritage assets	2	3	1	1	5	2	2		2	1		
% of all possible ‘Yes’ <sup>19</sup>	69				64				65			

**4.86** Much of the other data used in this analysis has been divided between local authority responses taken from two different samples. As well as the specific ‘good asset manager’/‘Buildings At Risk’ authorities sent questionnaires by direct mail, information has also been supplied by authorities responding to a questionnaire by e-mail sent via the Institute for Public Finance to ‘all authorities’. The results frequently show little difference between the information obtained from the two sources, notably in respect of:

- the types of heritage asset disposed of;
- heritage asset types disposed of recently and proposed for disposal soon;
- the reasons for the disposal of heritage assets;
- the recipients of heritage assets disposed of by local authorities;
- the financial terms on which assets were disposed of;
- the extent to which local authorities followed Government guidance.

**4.87** Collectively this evidence suggests strongly that there is no systematic variation between local authorities in their treatment of heritage assets in any way which can be discerned through their asset management function. The relationship between heritage issues and asset management in local government would be described statistically as random.

**4.88** Such qualitative evidence as is available tends to support this finding. Mention has already been made of the way in which the process of deciding whether or not to dispose of heritage assets is driven by the asset management function, not by the heritage protection function (paragraph 4.80), and a number of footnotes to tables indicate a degree of separation between asset managers and heritage conservation staff. A few authorities responded to questions by explaining how their asset management function worked in respect of heritage. The advice illustrated in Box 17 is typical.

#### Box 17 · Heritage issues in a typical Asset Management Plan

“The Council has adopted a policy under which properties will only be retained in Council ownership if they:

- need to be retained in Council control for the provision of services;
- are of great value to the Council, community and other stakeholders and/or in need of the degree of protection, from development or other uses, afforded only by ownership;
- are investment properties providing a financial

return that can fully satisfy the Best Value criteria.

Therefore all property ownership is tested against these criteria and, if none of them are met, the consideration is given to disposal. At that point, all the heritage issues would be considered along with all other disposal issues. Consideration would be given as to whether a heritage asset would be better protected or maintained if a disposal were to take place. Other disposal issues could also involve archaeological or biodiversity matters.”

**4.89** This typical kind of policy shows that there is scope for some heritage assets to be held back from disposal if they are sufficiently important to the community, but that the heritage interest in most assets is only considered once a preliminary proposal to dispose, on asset management grounds, has been tabled. The impact of local authorities' disposal policies on heritage assets may well vary. Much may depend on an authority's main motivations. If, for example, revenue raising is important, then the tendency will be for the most valuable properties to be sold. This would tend to affect the grandest heritage properties but bypass the lesser ones: as one authority noted "often a heritage asset has little value to the open market and is retained... with disposal of more valuable alternative assets". On the other hand, if the disposal policy is led more by service provision than finance (as is the case in the authority reported in Box 17), then any heritage asset not pulling its weight economically within the authority would be liable to be disposed of.

**4.90** This process is pursued by asset managers in local authority Property Departments with a large measure of ignorance about Government policy on heritage asset management. Table 17 showed that about two thirds of respondents were unaware of the specific advice. That advice is prepared largely by 'heritage' interests yet is expected to be used by 'property' interests: it has clearly often failed to make its way from one silo to the other. Meanwhile, the advice prepared by 'property' interests on the heritage aspects of asset management (see paragraph 4.14) is woeful in its content. There is clearly a communication problem. This is unfortunate, as there are plenty of signs from the responses that local authorities wish to take a responsible approach to heritage assets, such that advice on good practice might well fall on receptive ears.

**4.91** These findings should not mask the reality that there are many heritage assets held by local authorities around the UK which are deteriorating or at risk. These will in some cases take very substantial sums of money to bring back into a satisfactory or usable condition. Such assets are often, in financial terms, liabilities. Asset management policy on squeezing the best possible value for Council Tax payers out of the assets held in local government can easily neglect this. This study has shown in a few cases that have become apparent – but which may be the tip of an iceberg – that authorities often do not have the resources to meet a backlog of repairs at some properties, even if they might well wish to retain them to provide Council services. There appear to be essentially two possible responses to this predicament: disposal or better maintenance.

**4.92** Local authorities may feel they have little choice but to sell a property requiring significant investment, and to move the service to cheaper premises. In other cases, where a heritage asset has little chance of paying its way or which for some reason an authority wishes to retain responsibility for, authorities can aim to spread both the financial burden and the community benefit represented by the asset by working in partnership with the voluntary sector and local organisations. This can be for purposes of repair (e.g. Building Preservation Trusts), management (e.g. charitable trusts and Parish Councils), or occupation (e.g. community bodies on peppercorn rents or with grant aid). There is plenty of creativity in sustaining heritage assets demonstrated in the responses to questionnaires for this study, but this does need to be more widely appreciated by those remaining authorities which have not yet used the opportunities.

**4.93** The other response to the difficulty outlined, and to the risk that in future more heritage

properties will need major injections of finance, is better ongoing maintenance. ‘Staving off decay by daily care’ (as the Society for the Protection of Ancient Buildings has coined it) saves money in the long run and protects historic fabric which gives the character to our heritage. Postponing maintenance is a false economy and poor asset management, however politically attractive in the short term the expenditure of money on higher profile purposes. These findings echo those of Sir Michael Lyons, who noted in his report *Towards better management of public sector assets* (December 2004):

“It is clear that there is room for improvement. Asset management is a key part of business planning which connects at strategic level decisions about an organisation’s business needs, the deployment of its assets, and its future investment needs. The Government has laid the foundations for a rational approach, but the evidence suggests that asset management does not yet have the strategic profile it needs. In particular: ...

- It is not clear that public agencies are as focused as they ought to be on the ongoing maintenance of their assets” (paragraph 1.21).

**4.94** Paragraph 4.48 noted that lack of resources for maintenance was the overwhelming reason given by local authorities for disposals. The impression from the responses received was not that it was ongoing maintenance which posed a problem, but the build-up of a backlog of repairs over a period of time. We would expect better maintenance of assets across local government to reduce significantly over time the case for heritage asset disposals, as well as saving local authorities money in the long run.

## 5 · Disposal of heritage assets by public bodies in Wales

**5.1** This chapter explores the aspects of heritage asset disposals by public bodies which are distinctive to Wales. The devolution of many powers to the Welsh Assembly Government and its institutions has put administration and policy making into a transitional phase. New policy is continuing to emerge, taking over from older but still operative policy originally drafted in Westminster. This chapter incorporates information from WAG, Cadw, the Countryside Council for Wales and the voluntary sector in Wales. Information on heritage asset disposals provided by local authorities, which was limited in extent, has been incorporated in the wider analysis in Chapter 4.

### Procedures

**5.2** Primary legislation at present applies to England and Wales, so basic features such as listed building controls apply in Wales just as they do in England. Policy on heritage assets in Wales is still largely that which derives from the former Welsh Office. This was thin compared with the policy emerging in England from the Department for Culture Media and Sport (and its predecessor) and from English Heritage. A more distinctively Welsh approach is gradually being established, however. In particular a *Review of the Historic Environment in Wales* produced in March 2003 set the stage for potentially a significant improvement in practices in Wales. Concerning the management (and disposal) of local authority heritage assets, the report candidly described the main problems, including:

- a fragmented, confusing and inadequate information base;

- a failure on the part of some authorities to recognise the economic and social opportunities represented by sound conservation policy;
- little take up of the greater delegated local responsibility for heritage by councils, on offer from Cadw if defined standards are met;
- specialist skills required are very thinly stretched or completely missing in some authorities.

**5.3** These criticisms were broadly accepted by the Minister for Culture, Welsh Language and Sport (Alan Pugh AM) in his statement of 13th January 2004 on the Review following consultation responses. At present local authorities in Wales are not nearly so well equipped as their counterparts in England to address the difficult issues of public sector property management and potential disposal in the best interests of heritage assets.

**5.4** Neither WAG nor Cadw is clear whether the Treasury's Government Accounting Rules apply in Wales, and therefore whether heritage property can be disposed of at less than best consideration or if approval for that is required from the Treasury. This suggests that the need to know has not arisen, which is confirmed below (see paragraph 5.10). WAG indicated that if it wished to dispose of a major asset, it would err on the side of caution by consulting the Treasury.

**5.5** The accounting rules for disposals by other institutions in Wales such as Health Authorities were not immediately apparent. However, a Circular to local authorities on 16 December 2003 on *Disposal of land in Wales by authorities for less than best consideration* explains the operation of the General Disposal Consent (Wales) 2003 rules. Local authorities and similar bodies will no longer be required to seek specific consent for the disposal of land at an undervalue where the authority considers that the disposal is in the interests of the economic, social or environmental well being of its

area and the undervalue is less than £2 million. However, it is equally clear that there are no formal constraints on these or other public bodies in respect of heritage interests at the point of disposal. Thus even when Health Authorities had disposed of surplus hospitals they need not necessarily have consulted Cadw. There was no heritage check to set against revenue maximisation. The only rules which would have applied would have been the generally applicable listed building and conservation area legislation.

**5.6** There is no equivalent in Wales of the English Partnerships *Register of Surplus Public Sector Assets* by which to keep track of the disposal of government-owned heritage property. The nearest arrangement to this is the ability of the Welsh Development Agency through its Land Division to act as agent for the disposal of other public bodies' assets on request.

**5.7** Wales has no central Buildings At Risk register (though some local authorities keep local lists of buildings at risk). The absence of any record of heritage asset disposals by local authorities is the same as in England.

**5.8** All the main heritage-related parties in Wales-wide governance (WAG, Cadw and the Royal Commission on Ancient and Historic Monuments [RCAHM]) took the same view: if any major disposal seemed likely to take place, then 'local intelligence' would soon result in them hearing about it, whether this was a hospital, a barracks, a power station, or anything else. This, however, was well short of being consulted on such disposals, and did not necessarily mean that there was anything they could do to intervene. (These bodies could use their statutory powers, but these would probably not be relevant to disposals: for example, the RCAHM had powers to comment on proposals for the demolition of listed buildings, but

this is well short of being involved in the disposal process as of right.)

**5.9** There is no advice or policy in Wales on the disposal of heritage assets either by government bodies or by local authorities, unlike England.

### Practice

**5.10** The Welsh Assembly Government reported that it had not disposed of any heritage assets, and other parties consulted viewed this as likely to be correct. Similarly, Cadw had not disposed of any in the previous ten years. No indication was given of whether either body's practices might change in the near future. The Countryside Council for Wales (CCW) has landholdings which are National Nature Reserves (NNRs) and associated property, or which are acquired with a view to designation, though not all NNRs are in CCW's ownership. CCW began a review of its NNRs and landholdings in 2003, primarily with a view to acquiring sites (mainly to fill gaps in its collection). From this review, which is ongoing, CCW is also expecting to dispose of a salt marsh in its ownership (not an NNR), to a voluntary wildlife body, and three woodland NNRs. The latter disposals are possible because the threat of felling these broadleaved woodlands and replanting with conifers has been lifted due to a change in forestry policy. CCW's anticipated disposals therefore arise directly from a review of land holdings against objectives, and not for financial or other corporate reasons.

**5.11** The Countryside Council for Wales reported that the Forestry Commission had consulted on its disposal programme, but that other public bodies might contact CCW local staff or not consult at all. Occasionally CCW had grant aided voluntary bodies to purchase surplus public sector assets. It had also occasionally acquired the surplus assets of

other bodies (such as the Newport Wetlands Reserve from the Cardiff Bay Development Corporation when the latter was wound up), but generally had neither the inclination to acquire heritage assets nor the funds to manage and maintain them adequately.

**5.12** The broader pattern of disposals by local authorities is less clear. One consultee expressed the view that losses over the last twenty years had apparently been stemmed. The implication was that there had been a problem even if there was not one now. Nonetheless, this was an optimistic counsel as there was no formal means of being sure of the scale of disposals currently. Another consultee indicated that consultation was sporadic and depended on the attitude of the disposing body. (On this basis, consultations would probably be carried out by those less in need of intervention by heritage agencies.)

**5.13** Guidance on asset management specific to local authorities in Wales has been prepared by the Consortium of Local Authorities Wales (CLAW) and the Welsh Local Government Association (WLGA) as *A Guide to Asset Management Planning in Wales*, September 2001. This includes advice on aspects of disposal of assets but does not mention heritage issues at all. It is unclear whether this is an oversight or because heritage asset disposals are not anticipated. Nonetheless, the impetus which this guidance gives to disposal of surplus property would appear to make heritage asset disposals by local authorities more likely rather than less likely.

**5.14** Cadw holds biannual meetings with Conservation Officers in local authorities, which provides an opportunity for information on disposals to be circulated (though not all authorities have appointed such staff, and hardly any have appointed archaeologists). Cadw reported that it had been working closely with local authorities on

disposals of listed hospital buildings.

**5.15** The voluntary sector also had little information on heritage asset disposals by public bodies in Wales. Mention was made of a mental health hospital near Cardiff sold by the health service estates, and there was some concern about the deterioration in the quality of some local authority buildings which might lead to pressure for disposal. However, there was also mention of the likely sensitivity of public bodies to public criticism if they tried to sell heritage assets<sup>20</sup>. More likely scenarios included transfer of property to The National Trust or National Trust management of properties where the freehold was retained by the authority.

## Conclusion

**5.16** There is strikingly little evidence of heritage asset disposals by public bodies in Wales at present. In some cases this is clearly because few disposals are taking place (e.g. by WAG, CCW or Cadw). In other cases the picture is less clear: there have certainly been some disposals from the health sector and local government, but the scale of these is somewhat uncertain. A significant difficulty in identifying the circumstance in Wales is the limited nature of the information held on heritage assets, particularly those in a deteriorating condition which might be most likely candidates for disposal, together with a dearth of procedures to track such disposals as there may be. Too much reliance is placed on a small cadre of experts in the field to tell each other about imminent disposals. There is also a shortage of both policy to guide the disposal process and powers for relevant agencies to contribute on behalf of the heritage interest. At the same time there persists a serious shortage of conservation staff to deal with heritage issues on a day to day basis in local government. Curiously for a country with a proud heritage there has so far

been insufficient funding and political priority to remedy these problems. The attitude of the responsible bodies seems somewhat complacent in this context, though there has been a welcome recognition by the Minister that there is a heritage asset management issue which needs to be addressed. On the present trajectory, however, more and more properties seem likely to tip into a danger zone between insufficient maintenance and insufficient control over their disposal.

## 6 · Disposal of heritage assets by public bodies in Northern Ireland

**6.1** This chapter explores the aspects of heritage asset disposals by public bodies which are distinctive to Northern Ireland. It includes information provided by central government and its agencies in Northern Ireland, and from the voluntary sector. The few disposals by local authorities identified by this study have been incorporated in the wider analysis in Chapter 4.

### Procedures

**6.2** Legislation and policy applying in Northern Ireland are for the most part separate from those applying in England or Wales. However, many procedures and practices are modelled on those in England.

**6.3** In particular, a circular from the Valuation and Lands Agency on *Disposal of Surplus Land and Buildings by Public Bodies* has many close similarities with HM Treasury's Resource Accounting Manual. A section on the disposal of surplus historic buildings contains a number of valuable guidance features, including:

- a definition of historic buildings which covers not only listed buildings and scheduled ancient monuments but also locally listed buildings and 'unlisted buildings which make a positive contribution to the character or appearance of a designated conservation area';
- inviting an examination of the feasibility of alternative uses "which will require suitable professional advice" and their likely costs and benefits;
- taking account of the reduced sale value

occasioned by any restrictions on future use or costs of repair or adaptation.

The circular also provides that "In exceptional circumstances a public body may wish to sell a specialised or singular property to a selected purchaser (e.g. a 'heritage' body such as the National Trust) by means of private treaty, on the basis of a market valuation only."

**6.4** The Circular refers to additional guidance *Historic Buildings Conservation Guide for Government Departments* produced by EHS. This study could track down only one (hard) copy of it, and that is marked 'for official use only'. Also, as the document dates from 1992 and queries about it are directed to the Northern Ireland Office in London, it is clearly an historic document rather than one that is relevant now. Heritage interests in Northern Ireland indicated that they were more likely to refer to the DCMS guidance from 1999 and other publications by GHEU within English Heritage, though these are not widely used either.

**6.5** Departments and agencies in Northern Ireland considering disposal of heritage assets are encouraged to discuss their proposals with the Environment and Heritage Service. Both the Central Advisory Unit and EHS indicated that this generally did happen, even though there is no formal arrangement to alert EHS similar to the English Partnership *Register of Surplus Public Sector Assets*.

**6.6** The Environment and Heritage Service within the Department of the Environment maintains a Buildings At Risk register (with the Ulster Architectural Heritage Society). This covers not only all listed buildings but also unlisted buildings valuable in their context.

## Practice

**6.7** The Northern Ireland Office reported on its disposal programme, identifying five properties sold in recent years on behalf of a range of bodies for which it had responsibility. One primary school had been sold to a local authority, but all the other properties, including a court house, had been sold on the open market to the private sector. No special measures had been taken to secure the heritage interest in these cases. No preference was given to disposing of, or retaining, heritage assets compared with other assets. The Ulster Architectural Heritage Society has noted some problems which have arisen at certain sites disposed of. Ballymena Borough Council has supported proposals for new uses for the primary school, to be achieved through a building preservation trust (Gracehill Old School Trust), but funding has not been secured so far. In another case the Ebbitt building at Bryansford, County Down was sold only after an outcry against the proposals by the local Education and Library Board to demolish it. It remains on Northern Ireland's Buildings At Risk register.

**6.8** In addition, other parts of central government had sold heritage property in Northern Ireland. The best known is the sale by the Ministry of Defence of Divis and Black Mountain, overlooking Belfast, to The National Trust. Slievenacloy, an area of land in the Belfast Hills, was sold by the Forestry Service to the Ulster Wildlife Trust (with grant aid from the Heritage Lottery Fund and the Environment & Heritage Service). The latter sale followed a decision by EHS to declare part of the land an Area of Special Scientific Interest for its nature conservation value. Other significant sales have been the Crumlin Road Courthouse (by the Department for Constitutional Affairs) and Gosford Castle (by the Department for Agriculture and Rural Development)<sup>21</sup>. In each of these cases the

Environment and Heritage Service advised on the heritage interest in the disposal process.

**6.9** Taken as a whole, the volume of recent heritage asset disposals identified by this study is considerably less than might have been expected in the light of Sir Michael Lyons' report (see paragraphs 3.7–8). The explanation for this is uncertain. Possibilities include: fewer asset disposals than expected; heritage assets comprising a much smaller proportion of surplus assets than in England; disposals not passing through all the anticipated channels (where they would have been recorded); or insufficient response to disposals where heritage assets were or might have been involved. Certainly the procedures identified in the previous section are voluntary rather than obligatory.

**6.10** Looking ahead, the principal change in circumstances (as part of the ongoing process of returning powers to institutions within Northern Ireland) is likely to be the reorganisation of local government. The Review of Public Administration in Northern Ireland announced sweeping recommendations for change in November 2005. The proposals are to reduce the number of local councils from twenty six down to seven and to give them a wider range of powers. This seems likely to generate the redundancy of numerous small town halls.

**6.11** There are indications that the arrangements on paper are less than satisfactory in practice from a heritage perspective. In particular it appears that the motive of revenue generation from central government asset disposals is often too powerful to accommodate heritage interests. Not only is the formal guidance not widely known, but where it is applied, by engaging the Environment and Heritage Service, the process of disposal becomes more protracted and complicated. This is viewed as

unhelpful by disposing bodies and contrary to their main objective. As conservation bodies are not usually in a position to acquire property with the speed that the disposing body is aiming for, and grant aid cannot be obtained quickly enough, there is a likelihood that properties will be disposed of on the open market.

## Conclusion

**6.12** The overall experience in Northern Ireland is that heritage issues are not taken particularly seriously by public bodies disposing of assets. This confirms the finding from The National Trust's earlier report *Sense of Place: Planning for the Future of Northern Ireland* (2004). The Environment and Heritage Service endeavours to contribute heritage expertise to the process, but the difficulties it faces are considerable. Practice can fall short of their good intentions. The procedures for securing the heritage interest in public assets, which existing arrangements are clearly intended to support, are therefore currently unreliable. This is partly a cultural problem. It also arises in part from the high financial expectations of public sector vendors and the pressures on them to maximise short term revenue gain.

## 7 · The contribution of the voluntary sector

### The scope of voluntary sector submissions

**7.1** The study is most grateful to those voluntary organisations which took the time and effort to tackle our requests for information. A small number of significant responses were provided, but for the most part the scale of response was poor (see paragraph 2.22). A number of respondents offered nil or minimal responses, though their enthusiasm to support the study is appreciated. In some cases the responses supplied did helpfully corroborate the information provided by public bodies on their disposals (such as the Woodland Trust's experiences with the Forestry Commission). Most respondents listed a modest number of cases where they considered that disposals had taken place without the best interests of the heritage being secured; the more detailed responses provided further background information on particular cases. Other responses provided explanations of the issues faced in their sector of the heritage, rather than examples of good or bad practice.

**7.2** One valuable added dimension which the voluntary sector brought to the study was the more comprehensive understanding of the idea of heritage than had been reported by public bodies themselves. As well as the historic buildings and a small number of nationally important wildlife sites on which public bodies had mostly focused, respondents highlighted the risks to heritage assets such as historic gardens, historic theatres, unusual structures such as tunnels and airport buildings, industrial archaeology, sea-going vessels and a range of other chattels such as historic organs, engines and hydraulic presses. All of these were clearly within the definition of heritage assets set for the

study, even though comment from the statutory heritage agencies in all three countries (with responsibilities for these matters) had focused on buildings and listed structures. The range of public bodies noted as involved in disposals was correspondingly broadened, to include various museums and town councils.

**7.3** The most extensive assistance was from SAVE Britain's Heritage (SAVE). In addition to its direct contribution, the weight of SAVE's impact on the issue of heritage asset disposals by public bodies came in the form of a series of reports it had prepared in recent years on threatened buildings in the various sectors involved. Detailed reference is made to these as appropriate in earlier chapters. As SAVE examines heritage issues across all sectors, it is well placed to offer comparative assessments. Its views confirm the findings of this study, particularly that the main current risks to heritage property derive from the Private Finance Initiative (for which SAVE has reserved some of its most scathing criticism, see Box 18) and from the health services. There remains a serious problem with redundant mental health institutions, where the National Health Service has its own agenda on which heritage barely features: listed buildings like Cane Hill Hospital, Croydon have been allowed to deteriorate significantly, and there have been cases where the NHS has been resistant to proposals for sensitive new uses for old hospitals (even failing to reply to approaches in one case). Of the major Government bodies disposing of heritage assets on a large scale, NHS Estates (now dissolved) was the worst from a heritage perspective.

**7.4** SAVE also highlighted the risks now faced by Victorian schools in many localities, particularly where PFI deals have transferred the properties from Local Education Authorities (who lacked the skill to protect heritage interests in the construction of the packages) to new owners (who do not

### Box 18 · The Private Finance Initiative: a comment by SAVE Britain's Heritage

“PFI is the highly contentious form of Public-Private Partnership (PPP) by which Government contracts out the provision and modernization of public services to the private sector for a fixed term (normally twenty five years) in return for an annual fixed fee. It has been endlessly discussed, debated and analysed, but the widespread criticisms, now well worn, are worth repeating: that the driving force is, not as is claimed to introduce private sector efficiencies to the provision of public sector services, but to remove the costs of modernizing public services from the public sector borrowing requirement; that any savings that might accrue from the greater efficiencies of private sector practices and management are cancelled out by the higher costs of private borrowing against the rates the government can borrow at, by the profits expected by the consortia, the subcontractors and all their shareholders, and by the millions that are spent by consortia bidding for every contract – all of which are transferred to the public in the size of

the annual charges; that as a result there is a mounting body of evidence that PFI is often more expensive than traditional direct expenditure; that in reality there is no transfer of risk to the private sector, because if it comes to it the government would have to step into ensure public services were maintained; that the public sector comparator, the test by which government assesses whether a PFI scheme represents better value than traditional direct procurement is an infinitely flexible and therefore meaningless exercise which can produce any answer the Government might wish (as was shown in the London Underground PFI schemes); and that the idea of public buildings as civic projects standing for something greater than the most basic functional necessity has been replaced by a profit-driven ethos that strangles aesthetic considerations and even functionality, creating buildings that are at best uninspiring and at worst functionally flawed” (*Silence in Court*, 2004, p14).

understand historic buildings). Devon and Lancashire County Councils were picked out as causing particular problems. Historic courts are now also at risk due to PFI deals, even though the Department for Constitutional Affairs has demonstrated some sympathy for heritage protection.

**7.5** SAVE has not only identified buildings at risk of outright loss or loss of heritage value on disposal but also campaigned to rectify the problems. One consequence is that disposals in some sectors which would clearly have put heritage assets at risk some years ago are often now subject to procedures which are far more likely to be effective at securing

the future of those assets. This is particularly the case with the Ministry of Defence, which is the other public body disposing of heritage assets on a very large scale. The past – even the quite recent past – cannot therefore be assumed to be a sound guide in relation to future similar assets upon disposal. Nonetheless, serious problems can still arise occasionally, as witnessed at RAE Farnborough (see paragraph 3.81 and Box 7).

**7.6** The quality of information provided by other respondents was variable, but for the most part insufficient as a basis for establishing how significant a problem existed or the precise nature of any difficulties. Responses tended to focus on

difficulties which had been experienced rather than on good practice: this was to be expected as satisfactory transfers of assets are more likely to pass unremarked. The Church Commissioners, however, were identified as extremely responsible in conveying redundant Church of England churches free to bodies able to look after them in perpetuity<sup>22</sup>, and as having a good record in finding new uses for redundant churches of lesser heritage merit.

**7.7** Some distinction emerged between types of heritage asset. The intended disposal of a heritage building or heritage land usually came to the attention of a third party heritage body in advance of disposal taking place (even if not as early in the process as third parties would have liked). This happened even if there was no formal consultation with such groups, due to the effectiveness of informal networks. The same could not be said of movable items. The modest number of responding

bodies whose interest lay in chattels (e.g. industrial archaeological artefacts, historic organs, books) were often unclear about what exactly had been disposed of, or what had become of items known to have been dispersed. Registered Museums must satisfy requirements for Accreditation which include establishing a policy on disposals. However, even in these cases, and certainly for disposals of items or whole collections by unregistered bodies, concern was expressed at the absence of effective legislative regimes or watchdog arrangements to regulate disposals. The result was a significant level of chance in finding out about disposals of chattels, certainly in sufficient time to take action to protect heritage assets more effectively (see Box 19).

**7.8** Two respondents noted that disposals sometimes arose when the public body holding heritage assets was itself disbanded. Disposals could then be difficult to track (see Box 20).

#### Box 19 · The need for better public information on the disposal of chattels

“There are concerns more generally that collections built up over many years are being downgraded, with the disappearance of rare-book and scholarly collections no longer being supported by public libraries (or other public bodies) ... A very recent example relates to Queen Mary College, University of London, which needed to clear a former library building very quickly and disposed of books in skips which were found to contain some important material which arguably should not have been disposed of, and certainly not in such an insensitive way.” *Peter Hoare, Chairman, Historic Libraries Forum*

“The huge programme of mental hospital closures in recent years has caused great problems. Most had chapels with 19th century pipe organs by the

leading organ builders of the time. In selling off the buildings to developers the organs have generally been forgotten about, largely because they feature in no legislation as objects in their own right.”

*Barrie Clark, Heritage Adviser, The British Institute of Organ Studies*

“Generally the need for museums to dispose of large and heavy exhibits is now a pressing one and the problem needs to be addressed at a national level rather than by selecting examples. Our real problem is lack of accurate information as naturally museums are reluctant to make available information that might provoke criticism from outside – they are in an embarrassing situation.”

*Robert Carr, Association for Industrial Archaeology*

**Box 20 · Disposals arising from the disbanding of the heritage asset holder**

“Serious losses are bound to have occurred with the closure of... the Birmingham Science Museum in Newhall Street (only a percentage of the larger exhibits were to be retained). Large and heavy artefacts will almost certainly have fared badly.”  
*Robert Carr, Association for Industrial Archaeology*

“Examples include the historic evidence of the

construction of railways, well managed and preserved by British Rail, or similar evidence on waterways in the hands of water authorities: in some cases this was retained by successor bodies at the time of privatisation, but future preservation is unlikely to have a high priority in a commercial environment.” *Peter Hoare, Chairman, Historic Libraries Forum*

**Box 21 · Lack of owner awareness of the heritage interest in assets for disposal**

“English Heritage, until I pointed out its importance, nearly disposed of the 1868 William Hill organ in Brinkburn Priory. This situation arose because no-one within the organisation understood about organs.” *Barrie Clark, Heritage Adviser, The British Institute of Organ Studies*

“The main problem with publicly owned organs arises out of ignorance rather than malice. The loss of the organ from the Public Hall, Preston is typical of many similar examples. English Heritage allowed the end of the hall containing the instrument to be demolished for a ring road, and stated that the organ should be stored until a new use could be

found. This instrument was the *magnus opus* of the small firm of George Wilkinson of Kendal, and largely unaltered. After removal it was moved twice more, and this process is damaging in itself, and latterly the pipes were vandalised. The organ is now so damaged it will never be restored.” *Barrie Clark, Heritage Adviser, The British Institute of Organ Studies*

“Many cases of wholesale dispersal have been noted over the years, some causing great concern among librarians and the user communities.... such as... the drastic dispersal of the BBC’s gramophone record collection, of unique historical value.” *Peter Hoare, Chairman, Historic Libraries Forum*

**7.9** The problem of ignorance of the merit of some heritage assets (particularly chattels) amongst owners intending to dispose of them was also explicitly or implicitly indicated by a few respondents (see Box 21).

**Commentary**

**7.10** The evidence provided by third party heritage bodies on the incidence of heritage asset disposals, and on the issues to address in consequence, is limited other than from SAVE Britain’s Heritage. The primary reason for the limited number of cases reported individually

## Box 22 · Museum of Childhood, Sudbury

In 1967 Sudbury Hall, Derbyshire was transferred to The National Trust via HM Treasury, with Derbyshire County Council committed to paying 40% of its operating cost. In the 1970s Derbyshire County Council established the Museum of Childhood in the servants' wing of Sudbury Hall, working with National Trust staff.

In 1990, Derbyshire County Council gave The National Trust one month's notice of their intention to cease operating the Museum of Childhood. By this point, the museum was a popular local attraction, and both The Trust and the

Council would have suffered reputational damage if The Trust had not agreed to take on the running of the Museum. If The Trust had not stepped in, the exhibits would have been distributed amongst the original providers (The Trust, Derbyshire County Council and Cadbury's Trust). The County Council did not charge a fee for transferring the museum, but neither did it provide an endowment. However, the museum was suffering from no investment since the 1970s, which in effect left The National Trust struggling to fund much needed capital investment.

appears to have been simply that the other voluntary organisations had more pressing issues to tackle than public sector disposals: most of the major heritage organisations struggled to report problematic cases.

**7.11** The most interesting and apparently clear cases of difficulties were all pursued by contacting other parties who had been involved in them. None of these proved as problematic as had been alleged, and in one case was promoted by the vendor as an example of good practice. Nonetheless, it is clear from the evidence presented above that there are significant deficiencies in the procedures and decisions for protecting heritage assets when these are disposed of by some public bodies in some circumstances. The heritage interest in chattels appears less secure than that in buildings or land, for instance. This cannot be attributed simply to the dearth of regulation of the disposal process, which is similarly thin in respect of buildings and land. Rather, the informal networks which have been relied on to draw attention to the

potential disposal of buildings and land have been less thorough in addressing specialist interests in types of movable objects (on which fewer people are knowledgeable). The statutory heritage bodies have devoted substantially fewer resources to chattels than to buildings (and important wildlife sites): addressing this might well provide significant added value to the heritage for a modest resource outlay.

**7.12** Voluntary sector respondents also highlighted numerous cases where public bodies, mainly local authorities, were attempting to dispose of heritage assets in order to avoid further liabilities. The authorities were not necessarily successful in this, supporting anecdotal evidence on reluctant local authority ownership of heritage assets. A wide range of surplus heritage assets were identified by respondents as having been offered to the voluntary sector, virtually all of them being rejected not least for want of an endowment or other arrangement to secure their financial future. These included a castle, historic houses and their estates, a theatre, a

Martello Tower, Victorian baths, a watermill, a windmill, and a Moot Hall. The National Trust has been offered numerous heritage assets, such as Boot Corn Mill, Cumbria (Box 11) and the Museum of Childhood, Derbyshire (Box 22) which illustrate the forces at work.

**7.13** The limited details from the voluntary sector still leave open the possibility that there were heritage asset disposals taking place, and even heritage losses occurring, but third party heritage bodies simply did not know about them. The weight of evidence suggests that this is unlikely:

(i) there is a remarkably high level of expertise within specialist bodies in the heritage sector, sometimes held by just a few individuals: although a few cases might pass their notice, the systematic bypassing of their knowledge seems unlikely;

(ii) the experience of third party interests is consistent with the information provided from other sources;

(iii) as the most problematic alleged cases appeared on investigation not to demonstrate undue difficulties, it is doubtful that many truly problematic cases will have arisen without being spotted;

(iv) disposals are often identified by interested parties at a late stage in the process rather than only discovered after the event.

**7.14** The evidence from the voluntary sector therefore suggests that attention should be focused on the major disposal strategies from key public bodies and on procedures such as the Private Finance Initiative which are inherently likely to place heritage interests at risk. There are certainly other disposals taking place where heritage interests are by no means entirely protected, notably by local

authorities, but here the threat to the heritage is less systematic. The greatest actual and potential damage to heritage interests in the short term appears to be attributable to the disposal of redundant hospitals by the health services: this sector was highlighted by the voluntary sector in respect of buildings and estates (SAVE), gardens (the Association of Gardens Trusts) and organs (British Institute of Organ Studies).

## 8 · Conclusions

### Current practice in heritage asset disposals

**8.1** Heritage asset disposals are dominated by land and buildings. Only modest disposals of chattels were identified.

**8.2** Disposals of heritage assets by Government Departments have been heavily skewed to Defence, Health and a lesser extent Constitutional Affairs and Transport, with only limited disposals from the other Departments. Disposals by Health and especially Defence have been spectacular, whether measured in revenue generated (see Table 3) or area (see Table 4):

**8.3** Receipts to the Ministry of Defence are expected to continue at broadly recent rates for the next four years. This is the major ongoing cause of heritage asset disposals in the UK.

**8.4** Sales of redundant hospitals and other health assets generated £1.5 billion pounds in just the four years to 2000. NHS Estates continued to sell assets on behalf of the Department of Health on a grand scale, culminating in 96 hospitals being transferred to English Partnerships with a view to finding new uses in line with other Government programmes. NHS estates was disbanded in 2005 when almost all the 'retained estate' for which it was responsible had been sold. Any further disposals of surplus hospitals will be on a more sporadic basis by the individual NHS Trusts.

**8.5** In local government the pattern of disposals is much more mixed. Some authorities are actively engaged in significant disposal programmes whilst others are not. The kinds of heritage assets being disposed of are much more varied. Responses from 52 authorities are summarised in Table 6.

**8.6** The types of heritage asset which local authorities expect to dispose of in the near future are remarkably similar to those disposed of in the recent past. There were nearly as many authorities expecting to dispose of heritage assets in future as disposed of them in the past, even though authorities already active in disposals accounted for over 70% of those expecting to do so in future. Half the sampled authorities providing full information had not disposed of any heritage asset in recent years, and well over half the total sample had no immediate plans to do so. Setting aside a few authorities possessing few or no such assets, this suggests that there may be significant potential for future disposals (even if authorities are not currently anticipating this).

**8.7** The majority of heritage assets disposed of by local authorities were sold at market value, regardless of the recipient. One in eight of the heritage assets disposed of were financial liabilities, either incurring a maintenance cost in excess of their income, or having a significant negative value because of the cost of repairing them to a satisfactory condition.

### Causes of heritage asset disposals

**8.8** The disposal of assets by the public sector is driven fundamentally by financial pressures on property managers, both to retain a minimum portfolio of assets in efficient use and to raise revenue from sales. There is particular pressure to dispose of assets not contributing to public bodies' core purposes. Heritage assets are caught up in this process but (with exceptions) are not specifically targeted either for retention or disposal. Heritage interest tends to be considered only after a decision has been taken for asset management reasons to dispose of those assets.

**8.9** Redundancy is a principal cause of assets

becoming available for disposal in Government Departments. The very large scale disposals of Ministry of Defence sites (caused by slimming down the sector and by concentrating services on a smaller number of larger sites) and of mental health institutions (caused by a policy change in community care) have arisen from simple redundancy. In other cases, surpluses can be created through more efficient property management.

**8.10** In local government the overwhelming reason for the disposal of heritage assets is a lack of resources to maintain them, especially if their condition deteriorates so that a significant financial injection is needed to return them to a 'fit for purpose' standard. This was a stated reason in 58% of all disposals. Disposal is therefore triggered not so much by a desire to cash in the value of a heritage asset but by a desire to limit further financial liabilities. It is clear that this applies to operational buildings and land as much as to non-operational assets. With low response rates from local government, at under 15%, there is a risk that the results reflect an element of self-selection in which the better-performing authorities are more likely to respond. All results relating to local authorities should therefore be treated with caution.

**8.11** The other main cause of disposals, mainly but not exclusively by Government Departments, is the Private Finance Initiative. Here the private sector takes responsibility for the provision of services for a period of years, for a fixed annual fee, and is given flexibility in the way services may be provided. In some cases this involves the sale and lease-back of office premises, which would only be disposed of if the current occupants moved out. In other cases the private sector provider chooses premises for the delivery of services. In the latter case, heritage property tends to fare particularly badly, as private providers opt for new buildings with predictable costs rather than heritage buildings which they

viewed as risky, and seek larger (new) premises with concentrated activity for operational efficiency reasons. This has put out of use numerous heritage buildings which would have been retained under traditional funding mechanisms, with historic courts particularly at risk.

**8.12** In local government there is a small element of heritage-led interest in disposal in specific circumstances. Some authorities specifically identified public benefits as the reason for disposal, in which the heritage interest was a primary beneficiary. Other benefits of disposal for the asset itself mentioned by local authorities were:

- the recipient bodies could tap into sources of funds which were unavailable to the disposing authority;
- scope for creating worthwhile new uses for heritage buildings;
- generating cash which could be ploughed back into the fabric or management of the property being disposed of; and
- bringing in new sources of finance and managerial skills from the private sector (or other, usually local, managers).

Although these arguments might on occasions be viewed as putting a brave face on inevitable disposals, that is not to deny the benefits claimed.

### The risk to heritage assets

**8.13** In central government a distinction needs to be made between the impact on the heritage of asset disposals some years ago and the current and future impact. Over the last twenty years there have undoubtedly been serious losses, with the demolition of interesting, even iconic, properties and also built development allowed within the immediate settings of major heritage buildings.

**8.14** A serious problem is less likely in future for two reasons. First, the worst offending vendor, the Department of Health, has largely completed its disposal programme. Second, the procedures in place for securing the heritage interest in the disposal process have been tightened within the Ministry of Defence. Although this Department is so large that there can be lapses between the intended central policy and the local practice, the cultural acceptance of heritage merit is now rather better enshrined in the process than it used to be. Broadly speaking, the property managers in Government Departments are now familiar with the Government's intentions in respect of asset disposals involving heritage, both in terms of the scope to offset income to secure the public interest in heritage sites (the Government Accounting Rules) and in terms of heritage policy (set out in the DCMS's *The Disposal of Historic Buildings: guidance note for Government departments and non-departmental public bodies*, June 1999).

**8.15** Central government has an arrangement whereby property for disposal is advertised internally across all Departments and then if necessary marketed through a central clearing system. English Partnerships' *Register of Surplus Public Sector Assets* is not only useful as a marketing device but has built into it automatic consultations with heritage agencies such as English Nature, thereby providing an alerting mechanism to disposals with possibly wider ramifications. Both the marketing and monitoring elements have generally worked well, though there would be benefit in more monitoring bodies taking advantage of it and the whole scheme being extended to local government also.

**8.16** Against this, the emergence of the Private Finance Initiative is creating new challenges, with unfortunate conflicts being created between financial and heritage priorities. There is

considerable doubt whether the public sector bodies negotiating complex PFI contracts have the expertise to guarantee heritage protection, or the desire to do so where this could affect their own finances.

**8.17** In local government the picture is more mixed. Amongst property managers there is familiarity with the opportunity to dispose of heritage assets for 'less than best consideration' by imposing restrictions in the heritage interest, and to subsidise disposals of heritage interests, should local authorities wish to take such steps. However, there is considerable ignorance about heritage policy set out in the joint English Heritage, DCMS and ODPM publication *Managing local authority heritage assets: some guiding principles for decision-makers* (2003), which has close parallels on disposals with the advice to Government Departments. Furthermore, the advice to property asset managers on the heritage aspects of disposal has been remarkably weak, even in major guidance prepared jointly by ODPM and RICS in 2005.

**8.18** Nonetheless, in practice, the range of procedures which local authorities go through before finalising disposals has tended to have the effect of allowing heritage interests to be reflected in the disposal process, albeit in varying degrees. The result has been that hardly any cases were reported where the heritage asset ended up in a worse condition after disposal than it was before. For the 66 heritage assets for which information was provided by local authorities in response to questionnaires, 43 were disposed of to the private sector, 7 to the public sector and 16 to the voluntary sector.

**8.19** As well as (or instead of) finding suitable recipients for heritage assets, local authorities may take special measures as part of the disposal process to secure heritage interests. These include controls

over subsequent uses, obligations on repair and maintenance, controls over conversion, obligations to open to the public, prevention of specified changes, and scope for reversion to the vendor if the property is loaned or leased. Such limitations can further moderate the commercial motive. These are in addition to the powers such as listed building controls which are universally available.

**8.20** Questionnaires in both central and local government identified a general willingness to discuss heritage issues regarding prospective disposals with appropriate heritage bodies, such as English Nature and English Heritage (and their counterparts in Wales and Northern Ireland).

**8.21** Questionnaires aimed to identify problematic heritage assets which might possibly be candidates for future disposal. Over 30 assets or groups of assets in local government were identified which either had a negative value or cost more to manage than the income they generated. Six of these were deteriorating or at risk. In four of these cases, as well as in the large majority of other cases of financially problematic assets, the local authorities were actively seeking solutions to the difficulties. The broad picture from the questionnaire responses is of authorities striving to look after their heritage assets so far as resources allow, though large sums of money may be beyond authorities' capacity. The voluntary sector and to a lesser extent the National Lottery appear as the main partners sharing the load in these cases.

**8.22** The survey also identified one authority owning a church and another owning a castle (and also a countryside estate) who had no apparent strategy for addressing the heritage problems they identified. Other evidence suggests that these cases are the tip of a significant iceberg representing local authorities more interested in offloading what they perceive to be liabilities rather than seeking active

beneficial management and viable futures for their sometimes significant heritage assets, notably mansions in public parks.

**8.23** Taken together, the measures used by the public sector to protect heritage interests when assets are disposed of are capable of successfully securing their objective. However, the procedures to be followed (which are mainly policy-based than required in law) cannot cover every eventuality or every idiosyncrasy amongst vendors. Nor can they be relied upon when there is a strong and overriding revenue maximisation motive driving the disposal, or when sympathy for heritage is strictly limited. In these circumstances, there is a need to call public bodies to account for their actions and to insist on appropriate heritage expertise and consultation being brought into the process.

### Heritage asset disposals in the devolved administrations

**8.24** There is a significant difference between practices in England and in the devolved administrations in Wales and Northern Ireland. The accounting arrangements are much the same as in England, but the heritage policy basis for promoting good practice in heritage asset disposal is virtually absent.

**8.25** The Welsh Assembly Government has disposed of no heritage assets, almost certainly because it owns so few. There have certainly been some disposals in Wales from the health sector, local government and elsewhere, but the scale of these is somewhat uncertain. A significant difficulty in identifying the circumstance in Wales is the limited nature of the information held on heritage assets, particularly those in a deteriorating condition which might be most likely candidates for disposal. There is also a dearth of procedures to track such

disposals as there may be.

**8.26** There is over-reliance on a small cadre of experts in the field to tell each other about imminent disposals, and a serious shortage of conservation staff to deal with heritage issues on a day to day basis in local government. The attitude of the responsible bodies seems somewhat complacent in the context of an increasing risk to those heritage assets from deterioration, though there has been a welcome recognition by the Minister that there is a heritage asset management issue which needs to be addressed.

**8.27** In Northern Ireland the overall experience is that heritage issues are not taken particularly seriously by public bodies disposing of assets. The Environment and Heritage Service endeavours to contribute heritage expertise to the process, but the difficulties it faces are considerable. Practice can fall short of their good intentions. The procedures for securing the heritage interest in public assets, which existing arrangements are clearly intended to support, are therefore currently unreliable. This is partly a cultural problem. It also arises in part from the high financial expectations of public sector vendors and the pressures on them to maximise short term revenue gain.

**8.28** The evidence suggests strongly that overall the procedures for protecting heritage assets disposed of by public bodies in the devolved administrations are deficient, and that some of these assets are at significant risk of deterioration or loss.

## 9 · Recommendations

### 9.1 Central and local government urgently need to value more highly the role of heritage in society, focusing on its opportunities and on its contribution to public life rather than emphasising its costs.

This should be supported by the following steps:

9.1.1 Affording heritage issues more political priority and senior officer support than is apparent in many local authorities at present;

9.1.2 Nurturing pride in public sector heritage assets and making a commitment to their future quality and use;

9.1.3 Fostering ambition rather than reticence in the public sector role in managing heritage assets;

9.1.4 Substantially increasing the number of staff employed on heritage conservation issues in local authorities;

9.1.5 Creating a career structure in heritage conservation with more realistic remuneration and the prospect of building up a larger cadre of professionals;

9.1.6 Devoting more attention to the sound management of local authorities' own heritage assets;

9.1.7 Valuing more highly the skills needed to maintain heritage quality;

9.1.8 Requiring closer working relationships between staff in building conservation, asset management and other sectors (notably parks, leisure, and property-occupying services).

### 9.2 Heritage issues should be much more strongly represented in property asset management obligations. Steps which should be taken include:

9.2.1 Property asset managers should be trained to be far more aware of heritage issues;

9.2.2 Treasury advice on asset management should reflect the Resource Accounting Manual and Government heritage policy advice in supporting a more sympathetic financial regime where heritage assets are involved: asset managers should not be placed under such one-sided pressure to pursue financial objectives;

9.2.3 The decision on whether a heritage asset should be disposed of should be a corporate decision based demonstrably on both the property management and heritage aspects of asset management, not on property management issues alone;

9.2.4 The expectation that assets not required for public purposes should be disposed of should not apply to heritage assets where:

- the heritage asset has a negative value; and
- either the existing public sector owner is an appropriate owner to secure the heritage interest in the asset;
- or the local authority should be the owner of last resort.

9.2.5 There should be greater emphasis on the value of heritage, with a focus on the opportunities to generate economically sustainable uses for heritage property (rather than on the liabilities of its management);

9.2.6 The public sector should refresh its approach to heritage in much the same way as it has

refreshed its approach to efficiency in asset management.

**9.3 Specific additional steps should be taken to improve heritage asset management in local government.** These include the following:

9.3.1 The recent RICS/ODPM guidance on *Asset Management in Local Authorities* should be redrafted urgently to accommodate a more central role for the sympathetic management of heritage assets;

9.3.2 Heritage assets should be maintained at higher standards than many local authorities currently demonstrate, to avoid them slipping into a spiral of decline from which positive outcomes become progressively more difficult to achieve;

9.3.3 Local authorities should be given incentives to adopt a more proactive approach to finding suitable futures for heritage assets which are awkward in property management terms, in accordance with conservation principles;

9.3.4 Central and local government should work actively together (e.g. involving the Local Government Association, HM Treasury and Department for Communities and Local Government) to establish routes for financing the repair, maintenance and renewal of heritage assets with a view to clearing the backlog of work required within ten years and then sustaining maintenance work in order to avoid a recurrence of problems.

9.3.5 Voluntary organisations and local authorities should co-operate closely in partnership to find the best possible uses for surplus heritage assets and to sustain the economic viability of heritage assets in use.

**9.4 The disposal of heritage assets by local government should be more rigorously monitored.** Steps which should be taken include:

9.4.1 The English Partnerships *Register of Surplus Public Sector Assets* should be extended to cover the whole of local government, with:

- a public record of assets for sale, distinguishing heritage assets;
- a 40 day period before an asset can be advertised elsewhere;
- automatic alerting of heritage agencies.

It should then be used more intensively as a tool to monitor and evaluate disposal activity.

9.4.2 Proposals for the disposal of heritage assets should be subjected to a system of advance consultation and a transparent evaluation of options;

9.4.3 Expertise in specialist heritage issues should be obtained by a local authority whenever necessary;

9.4.4 Publicity for proposed disposals should be sufficiently effective for all parties with an interest to get involved, with much less reliance than at present on informal networks of committed individuals and organisations to hear about and respond to them.

**9.5 The Private Finance Initiative should be structured to support viable uses of heritage assets rather than to undermine them.** The following aspects are key:

9.5.1 The risk should be removed of structuring PFI contracts so that heritage assets can either be neglected or their associated costs be imposed on others outside the scope of contracts;

9.5.2 A review of heritage assets and how best use will be made of them in both heritage and service terms should be part of the tendering and evaluation process, in which effective heritage management is rewarded rather than viewed as a burden;

9.5.3 Any disposal of heritage assets consequent upon a PFI scheme should be subject to compliance with Government guidance on such disposals: some aspects may apply at the point the contract is let and others as part of the later process of asset disposal;

9.5.4 The remit of English Heritage's Government Historic Estates Unit should be extended to enable it to participate in the PFI evaluation process, including training the parties to these schemes in the quality of treatment expected of heritage assets.

**9.6 There should be a unified regime for quality assurance in the management and disposal of heritage assets by Government Departments.** This could include the following features:

9.6.1 The best-developed basis for this is the Biennial Conservation Report by English Heritage on the Government's Historic Estate, which should take on a more functional role in raising standards as well as providing a statement of record;

9.6.2 Information on compliance with other existing mechanisms committing Departments to good practice, notably *Framework for Sustainable Development on the Government Estate: Part G – Estates Management and Construction*; *Common Minimum Standards for the procurement of built environments in the public sector*; and *Making biodiversity happen across Government: Green Ministers' Biodiversity Checklist*, should contribute to this biennial report and be evaluated together.

9.6.3 English Heritage's Government Historic Estates Unit should continue with its critical and ongoing task of raising the quality of practice in heritage asset management in all Government Departments, including communicating the standards expected to staff at the local level.

**9.7 There should be a unified regime for quality assurance in the management and disposal of heritage assets by local authorities, led by the Audit Commission.** Steps which should be taken include the following:

9.7.1 Public bodies should be accountable for their performance in maintaining their historic estate;

9.7.2 Best Value Performance Indicators should be established which encourage local authorities to manage and dispose of heritage assets sympathetically;

9.7.3 Indicators of good practice should be drawn from existing advice from DCMS and English Heritage on *Managing local authority heritage assets*;

9.7.4 External evaluation and self assessment of the treatment of heritage assets can begin immediately, without waiting for indicators to be established or revised Government advice to be issued;

9.7.5 More inspections should be carried out by the Audit Commission of the asset management function in local authorities, and these should include an assessment of the handling of heritage assets;

9.7.6 Failure by local authorities to manage heritage assets sympathetically should be followed by:

- penalties of sufficient severity to discourage neglect and mismanagement;

- compulsory acquisition by an appropriate agency of central Government, with the cost of any necessary survey work and remedial action being charged to the authority.

**9.8** Government advice by DCMS on *The Disposal of Historic Buildings: guidance note for Government departments and non-departmental public bodies* should be extended to cover also other kinds of heritage asset, particularly land and chattels.

**9.9** In Wales and Northern Ireland there are additional requirements for new advice to public sector bodies on the management and disposal of heritage assets from a heritage perspective, and then for its effective application. Heritage issues generally should be taken more seriously in both countries, as their practices identified for this study lag behind those in England.

## Appendix 1 · Definition of ‘Heritage Assets’

**A1.1** The study took a broad view about what constitutes a ‘heritage asset’, essentially as something that is considered locally to be culturally valuable. This goes well beyond buildings, landscapes, habitats or museum pieces that are simply ‘old’ or ‘very important’. It addresses the links that people identify with the environment around them and they way this has evolved. Public bodies’ heritage assets are therefore defined for this study as follows. They should meet at least one criterion under each indent:

- buildings, land, chattels, equipment or other tangible item;
- be owned or held on a long lease by a public body;
- possess resonance, meaning or value in the evolution of place (whether or not the asset is itself particularly old);
- have merit by virtue of its intrinsic qualities or by its links to significant people or events;
- be capable of access or presentation or interpretation to the public for their appreciation and enjoyment (whether or not any of these is achieved at present).

**A1.2** For the avoidance of doubt, the assets may be:

- held for either operational or non-operational purposes;
- of positive or negative financial value (on the books or in the market);
- of no particular special status locally or nationally (e.g. they do not need to be listed [buildings], scheduled [monuments], designated [landscape] or of scientific or natural value [wildlife], or protected in any way), though such recording may reinforce their heritage value.

So, for example, land might count as a heritage asset if it comprises parkland or orchards or ancient woodland or controlled flood-meadow, or offers access to a view or where a famous poem was penned, but it must be more than just somewhere to walk the dog. Buildings may count as heritage assets if in a local vernacular style or associated with a local tradition or with a lifestyle long gone, but must be more than just a familiar local structure. A steam traction engine would probably count as a heritage asset, but not a modern artwork in the public body’s head office.

**A1.3** Consultees were invited to include the asset in their lists if they were unsure whether a possible heritage asset did meet the definition.

## Appendix 2 · Evaluation of asset management in local government

**A2.1** Central government provides incentives and advice to encourage high standards in asset management by local authorities. This includes the evaluation of local authorities' performance. The main evaluation device is the Audit Commission's promotion of Best Value, outlined below. Local authorities demonstrating exemplary standards and activities are given the accolade of 'Beacon Councils' on an issue by issue basis, and their experiences promoted as best practice for others to learn from and emulate. There is also an element of incentive to sympathetic asset management in the method for rating authorities in the Comprehensive Performance Assessment (see paragraph 4.4).

### Best Value

**A2.2** Local Government Act 1999 introduced arrangements to promote the continuous improvement in the provision of services by local authorities, called 'Best Value'. From April 2000, authorities were required to prepare Best Value Performance Plans setting out how they would conduct best value reviews of all their functions over a five year period. With the emergence of Asset Management Plans in 2000, asset management presented itself for many authorities as a service suitable for review in its own right or in combination with other property-related functions.

**A2.3** In the early period after 1999 Act took effect, local authorities were inevitably on a steep learning curve in how best to apply the new principles. They were also under considerable pressure to institute the new arrangements across all

their functions. The opportunities for asset management are now better understood and disseminated (see paragraph 4.6) – though the detailed expectations of central government continue to be adjusted – but the early Best Value Reviews of asset management by local authorities inevitably amounted to some extent to reports on 'work in progress'.

**A2.4** The Audit Commission has an overseeing role in this process, including a duty under the Act to carry out selective inspections of the performance of local authorities against best value criteria. The precise topics the Audit Commission scrutinises are flexible. Its intention to engage actively in asset management was signalled by its publication in 2000 *Hot Property: getting the best from local authority assets* (see paragraphs 4.2 and 4.11). The Audit Commission has carried out thirteen inspection reports either of the asset management function specifically or of property and related services which include it (excluding housing). However none of these are recent: eight were published in 2001, three in 2002 and two more in 2003, but since then not one local authority asset management function has been inspected. None of the five most recent Audit Commission inspections of the asset management function in local authorities, in 2002 and 2003<sup>23</sup>, mentioned any aspect of heritage at all. Disposal of assets was mentioned in four of the five reports, but in no case was this topic evaluated in any detail, even in the London Borough of Brent where revenues of £100m had been generated in the previous twelve years (notably to fund the authority's capital programme).

**A2.5** *Hot Property* recommended that ODPM establish asset management Best Value Performance Indicators, so that local authorities could evaluate their performance against indicative standards in this sector. However, this recommendation was not

taken up, so this incentive to local authorities is still missing. This may have given the impression that asset management is considered in Government to be less important than quality in the delivery of those other services for which performance indicators have been set. (Nonetheless, one of the intentions of best value reviews is that an authority should compare its performance with others as part of the process of benchmarking and quality improvement.)

### Beacon Councils

**A2.6** The Government is aiming to raise standards of practice through the Beacon Councils scheme. This is an initiative organised through the Improvement and Development Agency (IDeA) on behalf of the Office of the Deputy Prime Minister. One of the ten Round 6 themes, for the financial year 2005–06, was ‘Asset management’. The Government’s initial prospectus for Round 6 (*The Beacon Council Scheme Round 6: working with local government to improve performance*, IDeA/ODPM, April 2004), encouraging local authorities to apply for Beacon status, described the issue in the following terms:

“Management of capital assets is an important responsibility for councils, and increasingly so with the introduction of the single capital pot. Local authorities hold land and property assets as a support to the provision of services. The aims of a local authority practising good asset management would be make full use of these buildings, minimising the opportunity cost of tying up financial resources in the land or property. This could be achieved through using the asset for a wide range of activities or constantly reviewing use to ensure the asset is meeting the changing [circumstances]”.

**A2.7** The competitive process of selection resulted in the following authorities being awarded Beacon status for Asset Management: Ashford BC,

Cambridgeshire CC, Hertfordshire CC, Leeds CC and Rotherham MBC. The other authorities shortlisted were: Bournemouth BC, Carlisle CC, Cheshire CC, Cornwall CC, Essex CC and Telford & Wrekin C. All these authorities were circulated with a questionnaire for this study (see paragraph 2.9).

**A2.8** IDeA and ODPM published an *Asset Management Beacon Theme Guide 2005/2006* in 2005 showcasing the achievements of the five Beacon authorities and highlighting the learning events they were organising. Unlike the prospectus, quoted above, three of the authorities mentioned the issue of the disposal of surplus assets, of which Ashford BC strongly promoted its ‘proactive approach’ to this as being a contributory “key to the council’s success”. However, none of them referred in this guide to heritage assets of any kind.

## Appendix 3 · Questionnaire surveys

### A. English local authorities (direct mail)

*Part 1: Heritage assets disposed of by your authority since 1995*

(Please copy as necessary and complete a separate sheet for each asset disposed of.)

Authority name:

**Q1.** Category of heritage asset disposed of: land/buildings/equipment/chattels/other

**Q2.** Name and description of heritage asset, (including its size):

**Q3.** Why did your authority dispose of the asset, (beginning with the most important if there was more than one reason)? Examples might be revenue raising, redundancy of the asset, stemming maintenance/revenue expenditure, removing a liability, opening up new sources of finance and management not available to your authority, other (please specify)? Please add a commentary if that would explain the circumstances better.

**Q4.** To whom was the asset passed in the first instance (e.g. commercial body, Preservation Trust, private owner, other public body, charity)?

**Q5.** Did your authority specify in the disposal arrangements any steps to secure the heritage value of the asset and, if so, what were they?

**Q6.** Was the asset sold, for heritage reasons:

(a) for less than market value (i.e. to protect heritage value, as in Q5)?

(b) for less than best consideration (i.e. with a gift element)?

**Q7.** What happened to the asset shortly after its disposal? Please indicate the main use and management differences introduced after your authority owned it, and whether that use and management have been sustained.

**Q8.** Was the disposal part of a planned programme of asset disposals at the time?

*Part 2: Your authority's approach to heritage assets and their disposal*

(Please continue answers to any question on other sheets if necessary.)

**Q1.** Does your authority's asset management plan, or any other property strategy, give specific consideration to heritage issues? If so, please attach the heritage statement or provide a web-address for it.

**Q2.** Does your authority currently give any preference to disposing of or retaining heritage assets (compared with other assets)? Please explain, and attach a policy or web-address if appropriate.

**Q3.**

(a) Do you expect any heritage assets in your authority's ownership to be candidates for disposal in the next five years? Yes/ No/ Don't know

(b) If 'Yes', please describe very briefly each one which may be disposed of:

(c) In each case, why is disposal intended or a possibility?

(d) Has your authority a wider planned programme

of asset disposals?

**Q4.**

(a) Please name any non-operational heritage assets your authority owns which have a negative market value.

(b) Please name any non-operational heritage assets your authority owns which cost more to manage properly than the income they generate.

(c) Do any assets in (a) or (b) have intangible benefits which outweighs their costs?

(d) Which if any assets in (a) or (b) do you consider are deteriorating or at risk?

(e) How does your authority view these assets and respond to the problems?

**Q5.**

(a) Do you consider that your authority follows the guiding principles in *Managing local authority heritage assets* published by DCMS, ODPM and English Heritage in June 2003, which includes guidance on the disposal of surplus heritage assets?

Yes/ No/ Don't know/Not familiar with the Guidance

(b) Has that report been helpful or deficient in your circumstances?

(c) Does your authority discuss with English Nature any possible biodiversity value of potentially surplus assets?

**Q6.** Has your authority used fund-raising measures dedicated to supporting a heritage asset which has been retained by your authority? If so,

please explain.

Any further commentary on how your authority addresses the ownership, management and possible disposal of heritage assets would be greatly appreciated.

Thank you very much for answering these questions.

*Your contact details:*

Name:

Title:

Authority:

Telephone:

E-mail:

*Please return your responses to:*

Richard Bate  
Green Balance  
9 West End  
Kemsing  
Kent TN15 6PX

## B. Local authorities (Institute for Public Finance circulation)

**Q1.** Do you expect any heritage assets in your authority's ownership to be candidates for disposal in the next five years? Yes/ No/ Don't know

- If 'Yes', please describe very briefly each one which may be disposed of:
- In each case, why is disposal intended or a possibility?

**Q2.** Has your authority disposed of any heritage assets within the last five years? Yes/No

If so, please state for each one:

- Category:  
land/buildings/equipment/chattels/other
- Name and brief description
- Any extra reasons for the disposal (other than the asset being surplus)
- To whom was the asset passed in the first instance (e.g. commercial body, Preservation Trust, private owner, other public body, charity)?
- Did the disposal arrangements specify any steps to secure the heritage value of the asset and, if so, what were they?
- Was the asset sold for below unconstrained market value (i.e. to protect heritage value) as allowed by the Government Accounting Rules?
- Was the asset sold for less than best consideration (i.e. with a gift element)?

**Q3.**

(a) Does your authority discuss potentially surplus heritage assets with Government advisory bodies (e.g. English Heritage, English Nature, Cadw, Countryside Council for Wales, Environment and Heritage Service)?

(b) Have you found helpful the official Government guidance on the disposal of surplus heritage assets (in England Managing local authority heritage assets published by DCMS, ODPM and English Heritage, June 2003)?

Yes/ No (state deficiency)/ Don't know/Not familiar with the Guidance

## C. Government Departments

### *Part 1: Heritage assets disposed of by your Department since 1995*

(Please copy as necessary and complete a separate sheet for each asset disposed of.)

Government Department:

**Q1.** Category of heritage asset disposed of: land/buildings/equipment/chattels/other

**Q2.** Name and description of heritage asset, (including its size):

**Q3.** Why did your Department dispose of the asset, (beginning with the most important if there was more than one reason)? Examples might be revenue raising, redundancy of the asset, stemming maintenance/revenue expenditure, removing a liability, opening up new sources of finance and management not available to your Department, other (please specify)? Please add a commentary if that would explain the circumstances better.

**Q4.** To whom was the asset passed in the first instance:

(a) another Government Department, e.g. via the English Partnerships Register of Public Sector Surplus Assets?

OR

(b) outside the Government: e.g. commercial body, Preservation Trust, private owner, other public body, charity (please state which)?

**Q5.** Did your Department specify in the disposal arrangements any steps to secure the heritage value of the asset and, if so, what were they?

**Q6.** Did the asset's heritage merit result in it being:

(a) sold for less than market value (i.e. to protect heritage value, as in Q5)?

(b) sold for less than best consideration (i.e. with a gift element)?

**Q7.** Was the disposal part of a planned programme of asset disposals at the time?

### *Part 2: Your Department's approach to heritage assets and their disposal*

(Please continue answers to any question on other sheets if necessary.)

**Q1.** Does your Department have a policy which gives specific consideration to the heritage aspects of its assets? If so, please attach the statement or provide a web-link.

**Q2.** Does your Department currently give any preference to disposing of or retaining heritage assets (compared with other assets)? Please explain and attach a policy or web-link if appropriate.

**Q3.**

(a) Do you expect any heritage assets in your Department's ownership to be candidates for disposal in the next five years? Yes/ No/ Don't know

(b) If 'Yes', please describe very briefly each one which may be disposed of:

(c) In each case, why is disposal intended or a possibility?

**Q4.**

(a) Please name any non-operational heritage assets your Department owns which have a negative market value.

(b) Please name any non-operational heritage assets your Department owns which cost more to manage properly than the income they generate.

(c) Do any assets in (a) or (b) have intangible benefits which outweighs their costs?

(d) Which if any assets in (a) or (b) do you consider are deteriorating or at risk?

(e) How does your Department view these assets and respond to the problems?

**Q5.**

(a) Do you consider that your Department follows the advice in *The Disposal of Historic Buildings: Guidance note for Government Departments and non-departmental public bodies* published by DCMS in 1999? (This is referred to in *Government Accounting Annex 24.2 para. 12.*)

Yes/ No/ Don't know/Not familiar with the Guidance

(b) Has that advice been helpful or deficient in your circumstances?

(c) Are comparable standards adopted when considering disposal of heritage assets other than historic buildings? Yes/ No/ Don't know

**Q6.** Has your Department been able to access funds other than your own resources to support a heritage asset retained by your Department? If so, please explain.

Any further commentary on how your Department addresses the ownership, management and possible disposal of heritage assets would be greatly appreciated.

Thank you very much for answering these questions.

*Your contact details:*

Name:

Title:

Department:

Telephone:

E-mail:

*Please return your responses to:*

Richard Bate  
Green Balance  
9 West End  
Kemsing  
Kent TN15 6PX

## D Statutory agencies (as heritage protectors: this one for English Nature)

*Part 1: Assessment of heritage assets disposed of by other public bodies since 1995*

(This Part deals with cases where some kind of assistance was required to secure the future of a heritage asset when proposed for disposal by a public body. Please copy as necessary and complete a separate sheet for each asset disposed of.)

Name of disposing public body:

**Q1.** Category of heritage asset disposed of: land/buildings/equipment/chattels/other

**Q2.** Name and description of heritage asset, (including its size and any designation):

**Q3.** Please explain the circumstances in which the asset was disposed of and why there was a problem.

**Q4.** How did you hear about the intended disposal of this asset?

**Q5.** (a) Was the heritage asset sold at market price to a new owner capable of maintaining its heritage value? If so, and English Nature was involved in the process, how did English Nature contribute to the heritage benefit in this transaction?

**Q5.** (b) If the heritage asset only had a reliable future with some kind of assistance, do you consider that sufficient steps were taken by the disposing body to secure that future (e.g. by sale at below market value, with an improvement grant, with annual revenue support, with an endowment, by packaging the disposal with another valuable asset, by retaining ultimate responsibility through a long lease, or by some other mechanism)? If not, what was the deficiency?

**Q6.** What happened to the asset after its disposal? Was the heritage value of the asset secured? Please explain if anything went wrong.

**Q7.** Do you have any further comments arising from this experience, or views on the lessons which should be learnt from it?

*Part 2 : English Nature's overall experience of public bodies' heritage asset disposals*

In responding to each of the general questions below, please refer if appropriate to specific cases which illustrate your experiences, continuing on separate sheets if needed.

**Q1.** (a) Has English Nature been approached by a public body with a view to acquiring a heritage asset owned by that body? If so, how was the approach made?

**Q1.** (b) By what other means has English Nature heard about the likely disposal of heritage assets by public bodies (excluding cases alerted through the *Register of Surplus Public Sector Assets* held by English Partnerships, which are assumed to have been covered in Part 1)? Did you hear about any disposal by chance?

**Q2.** (a) If English Nature has considered acquiring a heritage asset, or supporting its acquisition by another sympathetic body, did the financial arrangements satisfactorily reflect the heritage obligations? If not, what happened?

**Q2.** (b) Do you consider that the formal commitments within Government to secure the future of heritage interest in surplus assets are fully satisfactory? If not, how might they be improved?

**Q2.** (c) Do you consider that the formal commitments within Government to secure the

future of heritage interest in surplus assets are properly applied in practice? If not, what are the difficulties and how could they be eased?

**Q3.** Do you consider English Nature is under any pressure to acquire assets from:

- a) the public body trying to sell it?
- b) the Government?
- c) local pressure groups?
- d) anyone else?

**Q4.** Are you reluctant to take on heritage assets from other public bodies because you consider it is their responsibility to look after these assets?

**Q5.** If you have taken on an asset from a public body, have you later encountered difficulties with the same body, e.g. through inappropriate developments being allowed nearby, renegeing on agreements (written or verbal), or anything else?

**Q6.** Do you have any further comments arising from your experiences, or views on how the disposal of public sector heritage assets could be better managed?

## E Voluntary sector (Heritage Link members)

*Part 1: Heritage assets disposed of by a public body since 1995*

(Please copy as necessary and complete a separate sheet for each asset disposed of.)

Name of public body:

**Q1.** Category of heritage asset disposed of: land/buildings/equipment/chattels/other

**Q2.** Name and description of heritage asset, (including its size):

**Q3.** (a) Was the heritage asset disposed of in the market with a good prospect that its heritage value would be protected without any special assistance?

(If 'yes', the remaining questions are not relevant to this asset, thank you.)

**Q3.** (b) If not, please explain the circumstances in which the asset was disposed of.

**Q4.** (a) To whom was the asset passed in the first instance (e.g. commercial body, Preservation Trust, private owner, other public body, charity)?

**Q4.** (b) If your organisation acquired the asset, how did you hear about its availability?

**Q5.** Do you consider that sufficient steps were taken by the disposing body to secure a reliable future for the asset (e.g. by sale at below market value, with a repairs grant, with annual revenue support, with an endowment, by packaging the disposal with another valuable asset, by retaining ultimate responsibility through a long lease, or by some other mechanism)? If not, what was the deficiency?

**Q6.** What happened to the asset after its disposal? Was the heritage value of the asset secured? Please explain if anything went wrong.

**Q7.** Do you have any further comments arising from this experience, or views on the lessons which should be learnt from it?

*Part 2: Your overall experience of public bodies' heritage asset disposals*

In responding to each of the general questions below, please refer to specific cases which illustrate your experiences, continuing on separate sheets if necessary.

**Q1.** (a) Has your organisation been approached by a public body with a view to taking on a heritage asset owned by that body? If so, how was the approach made?

**Q1.** (b) By what other means has your organisation heard about the likely disposal of heritage assets by public bodies? Did you hear about any disposal by chance?

**Q2.** (a) If your organisation has considered acquiring a heritage asset, did you consider the financial arrangements proposed were satisfactory. If not, what happened?

**Q2.** (b) Was an endowment offered and if so was this adequate?

**Q3.** Do you consider your organisation is under any pressure to take on assets from:

- a) the public body trying to sell it?
- b) local pressure groups?
- c) anyone else?

**Q4.** (a) Are you reluctant to take on heritage assets from public bodies because you consider it is their responsibility to look after these assets?

**Q4.** (b) Do you consider that your organisation can manage heritage assets more effectively than the public bodies disposing of them? Why?

**Q5.** If you have taken on an asset from a public body, have you later encountered difficulties with the same body, e.g. through inappropriate developments being allowed nearby, reneging on agreements (written, or verbal), or anything else?

**Q6.** Do you have any further comments arising from your experiences, or views on how the disposal of public sector heritage assets could be better managed?

Thank you very much for answering these questions.

*Your contact details:*

Name:

Title:

Department:

Telephone:

E-mail:

*Please return your responses to:*

Richard Bate  
Green Balance  
9 West End  
Kemsing  
Kent TN15 6PX

## Endnotes

<sup>1</sup> The Crown Estate owns over 1000 listed buildings and manages over 400 Sites of Special Scientific Interest. Nevertheless, for the most part it leases property rather than sells it, and so always maintains an interest, and such few disposals as it makes (e.g. Edinburgh Castle and Dover Castle) have been to other parts of the Government.

<sup>2</sup> The number of assets disposed of by MoD would have made completion of the questionnaires by Defence Estates a vast task. Defence Estates also provided a range of other documents.

<sup>3</sup> The Department for Health return was provided by NHS Estates, who omitted responses to Part 1 of the questionnaire which, like MoD, would have made its completion a vast task.

<sup>4</sup> In particular, it identifies local authority-owned buildings by location rather than owner, which has two effects. First, in shire areas, all buildings are listed by the lower tier authority, so that buildings-at-risk owned by County Councils are listed under Districts/Boroughs. This understates County responsibilities, reinforced by the survey for this study which did not circulate County Councils. Second, authorities which own buildings-at-risk in other authorities' areas are neglected, as the registrations are elsewhere. For example, the one local authority-owned building-at-risk in the Borough of Rugby is held by Coventry City Council. The survey for this study made no allowance for such anomalies.

<sup>5</sup> Authorities can simultaneously score well on the Comprehensive Performance Assessment and own Buildings At Risk because these yardsticks measure very different attributes. The categories present a

credible method for devising samples of local authorities in their treatment of heritage assets, not opposite ends of a spectrum of local authority performance.

<sup>6</sup> We are most grateful to David Bentley, Head of Asset Management at the IPE, for circulating his network and forwarding the responses received.

<sup>7</sup> Sir Michael Lyons *Towards better management of public sector assets* (December 2004), paragraph 3.6.

<sup>8</sup> *Estatecode* is no longer readily available other than its summary on the Department of Health website. These points are taken from an article "Re-using historic hospitals", published in *Context*, no. 72, December 2001, co-authored by Will Holborow (English Heritage) and Sue Taylor (NHS Estates).

<sup>9</sup> DCA is preparing a section for its design guide on making the best use of historic court buildings. It has also worked with English Heritage to produce a definitive history of law courts, and worked with SAVE Britain's Heritage in the preparation of *Silence in Court*, a campaigning guide to the history and protection of the best courts at risk.

<sup>10</sup> On disposals, the DETR good practice guidelines in March 2000 advised: "Property assets should only continue to be held if they meet the current requirements of the authority in terms of enabling it to meet its objectives (including financial). Otherwise that asset should be released and put to an alternative use or the capital receipt from it should be realised so that the capital realised may be used for other purposes. Authorities will be expected to set out their overall objectives in their Performance Plan under the Best Value Regime. Objectives for holding property should be developed from and directly relate to these overall objectives and be set out explicitly to ensure that they are shared and available" (Box 2.2).

<sup>11</sup> Only rarely do authorities carry out extensive consultations on the issues the subject of this study. The views expressed by residents of Weymouth and Portland BC are therefore instructive: the Citizens' Panel (of over 700 people) had a majority view in favour of retaining as many assets as possible in local authority ownership, the authority's Asset Management Plan reported (section 4.2).

<sup>12</sup> Caution should be exercised in numerical analyses, as the figures assume that all assets mentioned are equivalent, ranging from a tumulus at one end of the spectrum to historic mansions at the other.

<sup>13</sup> Assets 'surplus to requirements', and equivalent statements which do little more than state a precondition for disposal, were excluded unless further explained.

<sup>14</sup> Specific examples (identified from Asset Management Plans on websites and taken up with the authorities concerned) include Westroyd House, Leeds CC (which had been in need of significant repair) and Oakley Manor, Shrewsbury & Atcham BC (which had become progressively less fit for council purposes).

<sup>15</sup> This was the authority which also disposed of two urban open spaces to provide other public services, which involved a loss of the original heritage interest in those assets, suggesting that this authority should not be labelled in any particular way.

<sup>16</sup> In the direct-mailed questionnaire in England, the question was restricted to asking if local authorities discussed with English Nature the biodiversity value of potentially surplus assets.

<sup>17</sup> These two questions were run together in the questionnaire e-mailed via IPF.

<sup>18</sup> It is also possible that some of those indicating that they do or would consult heritage bodies were saying what they thought the study wanted to hear!

<sup>19</sup> Occasions when authorities have not responded to questions or the questions are not applicable have been omitted from the possible total scores.

<sup>20</sup> More generally, CLAW/WLGA's *A Guide to Asset Management Planning in Wales*, September 2001, notes the general sensitivity of disposals: "It is acknowledged that the disposal of surplus assets is a difficult and politically sensitive issue for many authorities, especially in areas which cannot generate high sale values. Even so, the need to justify the retention of surplus and under-utilised properties is a basic principle of good asset management and there must be strong corporate and member support for the Corporate Property Officer in this particular area of his responsibility." (paragraph 22.1).

<sup>21</sup> This early 19th century creation is on the Buildings At Risk register as it has suffered badly from neglect and its roof structure has collapsed in a number of places. There is nevertheless some concern in the voluntary sector that the residential scheme for Gosford Castle will result in damage to the building's setting.

<sup>22</sup> Primarily the Churches Conservation Trust (funded 70% by DCMS and 30% by the Church through the Commissioners) and the Friends of Friendless Churches.

<sup>23</sup> Oldham MBC: *Repairs, Maintenance & Asset Management of Public Buildings*, January 2002.

Monmouthshire CC: *Asset Management*, August 2002.

Neath Port Talbot CBC: *Asset Management*, August 2002.

Sheffield City Council: *Asset Management*, April 2003.

London Borough of Brent: Property Services, Asset Management & Facilities Management, October 2003.

