

8. PROPERTY PROCEDURE RULES

Application of the Property Procedure Rules

- 8.1 These Property Procedure Rules (Rules) apply to the acquisition and disposal of land and property owned by the Council corporately. The Rules apply to the leases which are for a fixed term of more than seven years and where considered appropriate by the Executive Director, Finance and Resources to the granting of, or entering into, of a licence agreement.
- 8.2 These Rules must be read in conjunction with any relevant Council policy and / or the applicable rules and provisions set out elsewhere in this Constitution, including without limitation, the Scheme of Delegation to officers and the Financial Procedure Rules set out respectively under section 2 and section 7 above, and the Cabinet Scheme of Delegation set out under Part 4 of this Constitution.

The Disposal of Land

Duty to Obtain Best Consideration

- 8.3 The Council is under a statutory duty to obtain best consideration (best value) when it disposes of land and property unless:
- (a) The disposal is of a short tenancy; or
 - (b) An exemption applies pursuant to Circular 06/3: Local Government Act 1972 general disposal consent (England) 2003 disposal of land for less than the best consideration that can be reasonably obtained;
- a short tenancy means either the grant of term not exceeding seven years, or the assignment of a term which at the date of the assignment has not more seven years left to run.
- 8.4 The duty to obtain best consideration is also subject to any other applicable statutory requirements, which may include, without limitation, consultation, notice and obligations concerning open spaces and playing fields.

The Disposal as a Key Decision

- 8.5 If the estimated capital value, or the annual rental value of the land (or buildings), or their estimated combined value (if applicable), is £500,000 or more (the Key Decision Financial Threshold), the decision to dispose of the land or building shall be approved by the Leader and / or the Cabinet pursuant to the Key Decision making procedure set out under Part 4 of this Constitution.

Reports

- 8.6 No land or property shall be disposed of unless the body or individual responsible for approving of the disposal has been provided with a report which includes the following information:

- (a) A complete description of all the land and/or property to be included in the disposal;
- (b) Confirmation from the Monitoring Officer that the title of the land and/or property is owned by the Council (or in the case of a licence, that the licence is still extant and capable of being subject to a disposal);
- (c) The reason for the disposal and any restrictions which the reason may impose upon the disposal;
- (d) A report on any information which is held by the Council on the previous use of the land which may affect its value (e.g. if land is / may be contaminated);
- (e) The estimated value of the land and/or property;
- (f) Evidence of appropriate consultation (including with relevant Ward Councillors);
- (g) Recommendations on the following:
 - (i) Issues which need to be resolved before the marketing of the land and/or property can commence;
 - (ii) The preferred method of disposal (i.e., sale by auction, sale by informal tender / expression of interest, sale by formal tender or sale by private treaty);
 - (iii) The title to be transferred;
 - (iv) The steps which need to be undertaken to maximise the value of the asset prior to disposal (e.g. planning applications);
 - (v) The minimum price that the Council is prepared to receive together with an asking price.

Achieving Best Consideration in Disposals

- 8.7 To achieve best consideration in the disposal of land or property will be advertised on the open market disposals by way of:
- (a) Sale by auction; or
 - (b) Sale by informal tender/expressions of interest; or
 - (c) Sale by formal tender.
- 8.8 The disposal of land or property by formal tender must comply with the relevant Contract Procedure Rules set out above in section 6.

Private Treaty Sales

- 8.9 The Council may consider disposing of land or property by private treaty sale, subject to the duty to obtain best consideration, in the following circumstances:
- (a) Where a proposed development opportunity will, in the opinion of the Leader / Executive Director, Environment and Place in consultation with the Chief

Finance Officer Monitoring Officer / Chief Executive, contribute to the delivery of the Council's priorities and policies in respect of its land and other property;

- (b) Existing lessees purchasing the freehold or re-negotiating or extending the terms of an existing lease;
 - (c) Disposals of property under the Right to Buy legislation;
 - (d) Disposal of property under the provisions of the Leasehold Reform Act 1967;
 - (e) "Special purchaser status" where the adjoining land or property owner wishes to purchase the Council's land or property interests. In these circumstances an additional premium will be payable as the land or property has added benefit to the purchaser above its market value.
- 8.10 Except where in the opinion of the Monitoring Officer, the Council is subject to an existing statutory or other legal obligation the Council is under no obligation to dispose of land in the circumstances above if it is not in the Council's interests and / or does not provide best consideration.

The Disposals of Other Assets

- 8.11 Prior to the disposal of assets other land or buildings checks must be undertaken to ascertain whether or not the disposal of the particular asset is subject to corporate policy, a contract or other arrangement and if it is, the asset must be disposed of accordingly.
- 8.12 Subject to Rule 8.11, office equipment and furniture should be advertised internally in the first instance and thereafter disposed of by way of a public auction, or by seeking three quotes from interested external parties.
- 8.13 The disposal must aim to achieve value for money and be in accordance with Scheme of Delegation to officers and the Financial Procedure Rules set out above under section 2 and section 7 respectively, and the Cabinet Scheme of Delegation set out under Part 4 of this Constitution.
- 8.14 Disposals of other assets with a value of or above the Key Decision Financial Threshold shall be approved by the Leader and Cabinet.
- 8.15 Records of disposals must be retained in accordance with the Council's records retention policy.

Reports for Disposals

- 8.16 No land or property shall be disposed of by the Council unless the body or individual responsible for approving of the disposal has been provided with a report which includes the following information:
- (a) A complete description of all the land and/or property to be included in the disposal;

- (b) Confirmation from the Monitoring Officer that the title of the land and/or property is owned by the Council (or in the case of a licence, that the licence is still extant and capable of being subject to a disposal);
- (c) The reason for the disposal and any restrictions which the reason may impose upon the disposal;
- (d) A report on any information which is held by the Council on the previous use of the land which may affect its value (e.g. if land is / may be contaminated);
- (e) The estimated value of the land and/or property;
- (f) Evidence of appropriate consultation (including with relevant Ward Councillors);
- (g) Recommendations on the following:
 - (i) Issues which need to be resolved before the marketing of the land and/or property can commence;
 - (ii) The preferred method of disposal (i.e., sale by auction, sale by informal tender / expression of interest, sale by formal tender or sale by private treaty);
 - (iii) The title to be transferred;
 - (iv) The steps which need to be undertaken to maximise the value of the asset prior to disposal (e.g. planning applications);
 - (v) The minimum price that the Council is prepared to receive together with an asking price.

The Acquisition of Land

- 8.17 The Council may acquire land inside or outside of the Council's area for money or money's worth, as a purchaser by:
- (a) Agreement for the purposes of discharging any of the Council's functions or for the benefit, improvement or development of the Council's area; or
 - (b) By compulsory purchase where the Council is authorised by legislation to do so and in accordance with the relevant statutory requirements.
- 8.18 The Council may purchase land on behalf of one or more other authorities acting together and under arrangements for the acquisition, including in relation to the use and occupation of the land.
- 8.19 The Council may acquire land for any statutory purpose even if the land is not immediately required for that purpose and until the land is required for that purpose, it may be used for the purpose of any of the Council's functions.

Reports for Acquisition

- 8.20 No land or property shall be acquired by the Council unless the body or individual responsible for approving of the acquisition has been provided with a report which includes the following information:
- (a) A complete description of the land or property that is being considered for purchase;
 - (b) Evidence that the seller of the land or property is its legal owner, or otherwise entitled / has the owner's consent to make the disposal;
 - (c) A full business case or similar report detailing the reasons for the purchase;
 - (d) Any information that may affect the value of the land or property, including structural and environmental reports;
 - (e) The proposed purchase price or rental value together with evidence of the prices for similar land or properties in the location;
 - (f) Evidence of appropriate consultation (including with relevant Ward Councillors);
 - (g) The terms and conditions to which the land or property and its disposal is subject.
- 8.21 The information detailed and all of supporting evidence must be retained for twelve years after the acquisition has been completed.

Valuations

- 8.22 All valuations undertaken in respect of the disposal or acquisition of land or buildings shall be carried out by a qualified member of the Royal Institute of Chartered Surveyors (RICS) with 'Registered Valuer' status.
- 8.23 Land or property with value of or above the Key Decision Financial Threshold, or high profile land or property an external franchising "Red Book" valuation (the RICS Valuation Global Standard) must be obtained from a qualified member of RICS.
- 8.24 Valuations should be based on existing and alternative uses for the land or buildings to ascertain the most valuable use within planning parameters.

Due Diligence

- 8.25 All prospective purchasers of Council land and buildings are required to undertake and satisfy the Council's due diligence procedures prior to any disposal.
- 8.26 The approval of any due diligence checks shall be the responsibility of an officer with the appropriate delegated authority under the Scheme of Delegation to Officers. The officer shall consult with such other officers as may be required or they deem appropriate.

Land Registry

- 8.27 All land or building disposals and acquisitions must be registered with the Land Registry as required.

Appendices to the Constitution