

APPENDIX 2

ENQUIRIES FOR MINOR LAND DISPOSALS

1.0 Background

- 1.1 The Property team receives a number of requests to purchase land for use either as gardens or for parking purposes. The challenges facing the council are to respond to enquiries in a timely way and to achieve a balanced and consistent approach to applications so as to ensure that disposals if they do occur do not have unintended consequences for adjacent occupiers and landowners.
- 1.2 This sets out how disposals of small parcels of land, which typically may be council-owned amenity land, can be agreed/progressed.
- 1.3 The attached procedure for disposing of parcels of council-owned land strikes a balance by setting out a transparent process for assessing applications and a fee and charges process so that the costs of considering an application are met.
- 1.4 In the current climate of ongoing budget pressures, it is vital, that all local authorities make the most of their property assets. This proposal is consistent with this objective in that it ensures best value is obtained, covers the administrative costs of processing enquiries, and sets out an indicative timetable for processing enquiries.

2.0 Proposed Procedure

- 2.1 In cases where an enquiry is made to the council for the sale of a piece of land by a neighbouring owner and the land is surplus to requirements, is unlikely to have any developable or open market opportunity for sale and has a market value of less than £10,000, it is permissible (under FPR 61) in these instances with the agreement of the Chief Finance officer and Monitoring Officer to adopt 'confined negotiations' with the adjacent or neighbouring owner to achieve the most advantageous financial result or for reasons of good estate management (e.g. if the land is 'landlocked' or is difficult or expensive to maintain).
- 2.2 Furthermore, it is likely that the sale of such parcels of land will be considered where:
 - There is a broader community benefit to the disposal e.g. rationalisation of small parcels of 'backland' open space, either rarely used or often misused.

- There are management/financial issues for the council e.g. that the land is costly to maintain.
- The enquiring party has extenuating circumstances e.g. there are health grounds in relation to the application and/or progressing the sale of the land would improve the quality of life and would not adversely affect the quality of life of others in the neighbourhood.

2.3 These owners are considered ‘special purchasers’ as these particular assets have special value to those owners only – the advantages arising from the ownership of a particular piece of land would unlikely be available to other buyers in a market. It may also be in the council’s interest to initiate and/or pursue these minor disposals in order to reduce the ongoing maintenance liabilities and obligations associated with holding these (sometimes isolated) pockets of land.

2.4 Each request will be dealt with on a case-by-case basis, but the following should be considered in every request:

- A requirement to obtain the ‘best price’ for the parcel of land
- Whether any pre-emption rights exist
- Whether market testing has or should take place
- How the land is accessed (can the enquiring party gain access without going over other council-owned property)?
- What the land is required for
- Whether the land is a ransom-strip
- Whether a disposal of the land would have a negative or positive impact on council operations or services, including maintenance
- Would the disposal have a detrimental impact on the remaining land, where only a proportion has been requested
- Is there any relevant historical background to the land?
- Should any restrictive covenants or special conditions be attached to the disposal?
- Is the land to be disposed of a revenue generating asset?

3.0 Principles of Disposal

3.1 The general principles to be applied for the disposal of minor land assets are as follows:

- All disposals must follow council approval process.
- Where negotiations on price are required, these will be conducted by the council’s surveyor and/or agent.
- Advice should be sought from the council’s surveyor and/or agent on the most appropriate method of disposal.
- Enquiring parties will be required to meet the council’s reasonable legal and other relevant professional fees as outlined below.

ITEM	FEE
Initial Application fee	£250.00
Land valuation fee (varies depending upon complexity)	£TBC
Statutory Notice charges for disposal of public open space	£TBC
Informal Pre-Application Planning review	See Planning Portal
Change of Use planning application fee	See Planning Portal
Council's legal fees (varies depending upon complexity)	£TBC

- 3.2 The level of fees chargeable will be reviewed annually.
- 3.3 Fees are to be paid in advance of work being carried out and there will be no exemptions.
- 3.4 The fees are a contribution towards the cost of administering the applications and these are non-refundable unless the enquiry leads to the open marketing of the property.
- 3.5 For minor land disposals, application forms can be made available online or from the Property team. An application form (Land Purchase Application Form) is attached and should be completed by the enquiring party and returned to the Property helpdesk, together with the initial application fee.
- 3.6 The process for deciding whether to progress with an enquiry will depend on the nature and value of the transaction and it will be made clear to the enquiring party, at every stage of the process, that the council is not obliged to sell the asset.

4.0 Stage 1 - Application

- 4.1 The Land Purchase Application Form should be fully completed and signed/dated and accompanied by an on-line payment for the non-refundable application fee (£250.00).
- 4.2 Guidance Notes will assist with the correct completion of the application and the enquiring party should ensure that the proposed future intended use is accurately stated (to include any proposed method of enclosing the land) – the council's internal processes will consult based upon this information and any subsequent changes may require a new application.
- 4.3 The council will confirm receipt of the application and the Property team will check:
- That the council owns the land the enquiring party is interested in purchasing.

- Legal are instructed to prepare a title report to establish among other things that the title does not contain any restrictions that would prevent the sale.
 - That known 'exclusions' don't apply (see below Reasons for the Council Retaining the Land Ownership).
 - That the council service department responsible for the land will support the sale.
- 4.4 Subject to completion of the necessary steps outlined within this procedure, the Property team will then begin the consultation process with the local Ward and Town and Parish council elected members. Providing they are supportive of the sale proceeding, the relevant Cabinet member will be informed.
- 4.5 If approval to the proposed sale is confirmed, a quotation will be provided for a Red Book valuation, to be undertaken by an RICS Registered Valuer
- 4.6 At this stage the enquiring party will be advised whether or not the sale can progress to the next stage (to include the placing of any conditions upon which the sale can proceed) and, if relevant, any reasons for refusal.
- 4.7 If the proposed sale is supported by the council, the enquiring party will be asked for confirmation as to whether they wish to proceed to the next stage (within a time limit of 21 days) and asked to supply the Valuation Fee due before the valuation can be instructed.

(Indicative timescale for council's decision 10-12 weeks)

*NOTE - Open market sale: The council is, with certain exceptions, obliged by law under the Local Government Act 1972, to sell land for the best price reasonably obtainable. This means that if, following consultation, it is considered that the land the enquiring party has asked to purchase could be of interest to other parties or could be sold for development land, the council must advertise it for sale on the open market. In such a case, the more usual disposal process as outlined in the council's Disposal Policy will be adopted with the enquiring party sent sales details once prepared. The enquiring party will be able to make an offer for the land during this marketing phase along with any other interested party. In such cases, it is proposed that the enquiring party's initial application fee **will** be refundable.*

5.0 Stage 2 – Valuation

- 5.1 The council is obliged by statute, under the Local Government Act 1972, to sell the land for the best price reasonably obtainable. In order to comply with this requirement, it will ascertain the market value of the land for the use proposed.
- 5.2 Providing that the enquiring party has supplied the Valuation Fee within the indicated time limit, the council will appoint the successful RICS Registered Valuer to undertake the Red Book valuation of the land and, once produced, the Property team will then invite the enquiring party to make an offer to purchase the land based upon the valuation for the proposed use (subject to satisfactory completion of the following stages and subject to contract).
- 5.3 As the valuation will be based upon the use that the enquiring party originally indicated, the proposed land sale may include strict conditions on the disposal (to ensure that it cannot be used for other/alternative purposes in the future). It should be pointed out that if the sale completes with restrictions applied, it may be possible to remove these conditions at a later stage – subject to the council requiring the land is re-valued and any uplift in value paid prior to these restrictions being released, along with any cost incurred by the council in administering this.
- 5.4 The enquiring party will be asked whether they wish to proceed to the next stage, (within a time limit of 21 days) and, if the disposal relates to Public Open Space - asked to supply the Statutory Notice Charges Fee due before the relevant advertisements can be placed.

(Indicative timescale for confirmation of council's decision 2-3 weeks)

6.0 Stage 3 – Statutory Notices for Disposal of Public Open Space

- 6.1 If the amenity land that the enquiring party would like to purchase is deemed to be Public Open Space, the council is obliged by statute under the Local Government Act 1972 to advertise the proposed sale within a local newspaper for two consecutive weeks and consider any objections received.
- 6.2 In order to comply with this requirement, the necessary authority will be obtained and then the council will advertise the proposed land disposal within the appropriate media and the enquiring party will be required to pay for the charges associated with placing the advertisement. If objections are received following the advertisement, the matter will be referred to the relevant Cabinet member for a decision.
- 6.3 The enquiring party will be advised of the outcome of the Statutory Notices, whether or not the sale can proceed to the next stage and any reasons for refusal. If the proposed disposal is supported by the council, the enquiring party will be asked to secure planning permission, where required, for the change of use from Public Open Space to the proposed use.

(Indicative timescale for council's decision 4 - 5 weeks)

7.0 Stage 4 – Planning Permission

- 7.1 Planning consent may be required for change of use and/or development of the land that the enquiring party proposes to purchase or for other matters such as fencing and boundary treatment.
- 7.2 The enquiring party is wholly responsible for finding out whether planning consent is required and should make their own enquiries with the council's Development Control Planning team, highways, and any other authorities. It is the enquiring party's responsibility to ensure that any consent required is gained.
- 7.3 Planning offers a pre-application service which is an informal option as to whether planning permission is likely to be granted. Although there may be a charge for this service, the enquiring party may want to consider this option before making a formal application, as it could save time and money in the long run.
- 7.4 The enquiring party will be required to serve notice on the council when the application is made and should be mindful that applications involving council owned land have to be determined by Planning Committee which can impact on timescales for a decision (as the Planning Committee meet on average every 3 weeks).
- 7.5 Once planning permission has been secured for change of use then the enquiring party must inform the council's Property team, provide evidence that planning permission has been secured and confirm that they wish to proceed to the next stage.

NOTE - Any decision by the council to sell the land is separate from any decision to grant planning consent and the enquiring party should not assume that planning consent will be granted automatically just because the council has agreed to sell the land and vice versa.

(Indicative timescale 5-6 weeks but may vary depending on the Planning Committee cycle).

8.0 Stage 5 – Sale Contract

- 8.1 Approval will need to be sought from Chief Finance officer and Chief Monitoring officer following the requisite approvals process. The council will issue the enquiring party with a final offer letter, subject to contract, and the enquiring party will be given a time limit for confirming that they want to proceed.
- 8.2 Once the enquiring party has confirmed that they wish to proceed, the council's Legal team will be instructed to issue and complete the land transfer documentation. The enquiring party will be required to pay the council's reasonable legal fees which will depend upon the complexity of the case, the

time taken and the number and extent of queries that are received from the solicitors acting on behalf of the enquiring party. The Legal team will provide an indication of their fees and where appropriate will request an on account payment prior to commencing work. The enquiring party will also be responsible for charges and disbursements as well as land registry fees for registering the new land ownership and any stamp duty land tax post-completion. The council's Legal team will collect the land purchase price and any associated charges/fees not invoiced prior from the enquiring party as part of the land sale completion process.

- 8.3 The acquiring party must appoint their own solicitors to deal with the land purchase and provide up to date contact details to the council.

(Indicative timescale 8-12 weeks)

9.0 Appeals

- 9.1 There is no appeals procedure. However, if the enquiring party feels that they have additional information or justification to support their application that has not previously been considered, it may be possible to process the application again, based on the new information.
- 9.2 The enquiring party may be charged further administration fees if a revised application involves undertaking the consultation process again.

The council reserves the right to review and amend this procedure at any time

10.0 Reasons for the Council Retaining the Land Ownership

- 10.1 In certain circumstances the council will not be able to consider an application for the purchase of amenity land. The majority of these circumstances are set out below:

A) PLANNING AND HIGHWAYS CRITERIA

- Land forms part of an existing or potential strategic or locally important open space.
- Ward is deficient in public open space as defined in the adopted Local Plan.
- Area contains a Scheduled Ancient Monument / Tree Preservation Order or encompasses Protected Hedgerows.
- Land is subject to adopted Highway rights.
- Land encompasses a right of way, cycle, or footpath.
- Land has a title covenant that restricts its use or requires it to be retained as public open space.
- Land sale will cause detrimental effects within neighbouring or nearby properties.
- Boundary of land to be sold is shared by more than one neighbouring property.

B) HEALTH AND SAFETY CRITERIA

- Land sale will reduce the width of any public rights of way corridors.
- Land sale will adversely affect highway sight lines.
- Land forms part of riparian buffer zones or flood plain protection.
- Land contains services or land drains and the sale of the land would incur additional costs for the council (e.g. re-siting of lamp posts or telephone cables).

C) AMENITY CRITERIA

- Area acts as a wildlife corridor
- Land has specific habitat / species protection / biodiversity
- Land sale would impact upon or cause loss of local amenity / recreational value
- Land contains public art
- Land acts as a residential buffer
- Land is part of a SUDS or adjacent to a drainage system

D) MAINTENANCE CRITERIA

- Land sale would inhibit access to other council land and/or increase maintenance costs for any retained landscaped areas
- Land sale would result in loss of trees / shrubs / hedges

E) BEST VALUE CRITERIA

- The land is suitable for development and / or may be of interest to other parties and best value will only be obtained if it is offered for sale on the open market
- The council has other foreseeable operational use of the land

F) OTHER

- The land offers or would offer regeneration or development opportunities for the council
- There are management or other issues that would cause inconvenience to the council if the land was to be sold
- The applicant has outstanding debts with the council