

Appendix 1

Rossendale Borough Council

Land Disposal Procedure Review

Background

The Council's historic land disposal policy consisted of the Purchase Lease Rental Scheme (PLR Scheme) which had been adopted by the Council for at least ten years combined with the provisions in the Council's Constitution and Standing orders and the statutory requirements of the Local Government Act 1972 and Government Circular 06/03 (Disposal of land for less than the best consideration that can reasonably be obtained). The 1972 Act gives Local Authorities the power to dispose of land or interests in land including the grant of easements but the disposal must be for the best consideration reasonably obtainable (except in the case of short tenancies) unless the Secretary of State consents to the disposal. Additional powers to allow disposal at an under- value of up to £2million were conferred by Circular 06/03 subject to certain exceptions.

The PLR Scheme was temporarily suspended by resolution of the Cabinet on 23rd October 2013 and since that date every application to acquire or rent land has been treated on the merits of each case with some applications being accepted and approved under delegated power and reported to Local Ward Councillors.

Due to some concerns expressed by Members in individual cases, it has been requested that the disposal policy be reviewed by an Overview and Scrutiny Panel.

Scope of Review

In most cases a disposal is defined as the transfer of the freehold or leasehold interest in property or land for a period greater than 7 years to a third party or PFI Scheme. For the purpose of this review, the feedback from Officers and Members is that a disposal will be defined as the disposal of any interest in land or property other than the grant of tenancies of industrial units, garage sites and allotments within defined garage colonies or allotment sites, any tenancy of a garage plot to be for a lease of ten years subject to the payment of a premium, or short term licences (one month or less) of land or property.

Considerations for Disposal

1. Is the land or property surplus to Council Requirements?
(If not used for operational purposes most Council-owned land is potentially surplus)
2. Is the land or property part of the Council existing managed estate portfolio?

3. Is the land or property part of a defined P.O.S. (Public Open Space) area?
4. Is the land or property subject to an existing interest or overriding interest from a third party? e.g. covenant, right of way etc.,
5. Does the Council have good legal title to the land (Registered Ownership) including any obligation for repayment of grant?
6. Is the land/property registered as a Community Asset?
7. Does the intended use of the land/property require planning consent and does it meet current planning requirements?
8. Are there any specific planning designations affecting the property/land e.g. Green Belt, TPO's, Listed Building, S.S.S.I's, Ecological Networks Biological Heritage Sites, National Land Database (NLUDES), Local Nature Reserves etc.,

De Minimise Level

The Council will not consider any disposal at a capital value less than £1000 or a rental value of less than £100 per annum.

Proposed Process for new applications for the Council to disposal of an interest in Land or Property

1. All applications to be submitted to the Council's Property Services Manager for processing.
2. All applications to be submitted in writing attaching plans of the proposed land and setting out details of the reason for purchasing.
3. Non-returnable Applications fee of £100 to be submitted with every application.
4. An initial decision to process or refuse the application to be made by the Property Services Manager, in consultation with the Corporate Property Officer (S151 Officer).
5. Any appeals against such decision to be considered by the Director of Business in consultation with the Portfolio Holder for Finance and Resources.
6. All applications approved by the Property Services Manager to be forwarded to the Portfolio Holder for Finance and Resources and the Ward Councillors

as a formal consultation.

7. Following approval by the above named Members the applicant to be informed of the Council's decision to dispose in principle, subject to contract and formal Council approval, advertising as Public Open Space where applicable and the agreement of the terms of sale/lease.
8. Prior to issuing any Legal documentation, a check is to be made as to the status of any land/property as regards any former use as Public Open Space. There is no cast-iron definition of Public Open Space but the definition from S336 of the Town & Country Planning Act 1990 is "Open Space" means any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground. S. 20 of the Open Spaces Act 1906 defines 'Open Space' as "Any Land, whether enclosed or not, on which there are no buildings or of which not more than one twentieth part is covered with buildings and the whole or the remainder of which is laid out as garden, or is used for the purposes of recreation, or lies waste and unoccupied."

These are broad definitions so every case needs to be taken on the merits. The Council is required to advertise the intention to dispose of land considered to be "Open Space" in a local newspaper for two consecutive weeks and consider any representations received.

The notice of disposal will also go on the Council's web-site and on The Business Centre Notice Board for the requisite period.

Once a disposal has been provisionally agreed a note is also to be placed in the "Members Bulletin" report.

A link to the Council's Transparency Code will be placed on the web-site. Delegated decisions are to be recorded and reported to Members in the "Members Bulletin".

A condensed version of the application process will be placed on the web-site.

9. When a piece of Council land is for sale then a notice will be erected informing the public that if they are interested in buying the land they should contact the Council. Then, if more than one party is interested with that area of land/property, the proposed sale may be advertised and sealed bids/tenders invited from all interested parties.
10. If more than one party is likely to be interested in purchasing/leasing the land/property then consideration will be given to the Sale/Lease being advertised in the local press or possible interested parties being contacted

directly by Property Services. If additional interest is received following the advertisement etc. then sealed bids/tenders will be invited from all interested parties and a final recommendation will be made to the Portfolio Holder and Officers under delegated powers.

11. If there is only one party involved, the Property Services Manager will offer terms of sale based on full Open Market Value and following provisional agreement of terms, the sale/lease will be reported for approval under delegated powers to the Portfolio Holder and Senior Officers of the Council. It will be stated in the report that there is only one potential purchaser with a supporting statement for this decision.
12. Following the receipt of approval the Property Services Manager will issue formal instructions to the Legal Services Manager who will complete the Legal documentation and issue a completion notice to all Council Officers involved (standard form).