

Strategic Property Services (SPS) and Economy, Regeneration and New Homes (ERNH)

Small and micro surplus assets fast-track disposal and acquisition policy

May 2023

Purpose of the policy

SPS and ERNH are collaboratively developing a policy framework intended to enable fast-track and best value disposal of small land and property assets which are surplus to council requirements and would not contribute towards meeting strategic objectives.

The objective of the policy is to introduce a streamlined and proportionate way of determining assets which are surplus to council requirements, including for operational, regeneration, strategic and other needs, and to release these in a suitably transparent and equitable manner addressing best value and place-making considerations. In a process which leads to a transaction, the perception in some quarters can be that this is a rather sterile, narrow piece of work, but LBH recognises that each of its assets has a relevance to its local environment, to a greater or a lesser extent. In that context, it is made explicit here that part of the review process is always to consider the implications of a potential decision on an asset's physical environment, otherwise referred to as "place".

The purpose of the policy is to enable council resources to be focused on land and property with the greatest potential benefits for the borough and its residents. This will be achieved by releasing assets for sale that could be reasonably described as a liability, or which the council has no use for either now or in the foreseeable future and where the sale will not prejudice the Council's ability to manage or develop other neighbouring land.

The policy will enable the many resident and business enquiries received each year, regarding the purchase of micro plots of land adjacent to individual properties, to be addressed in a resource efficient manner, and for this kind of land to be put to use by residents and businesses for the general improvement of the borough and localities where it is vacant or underused and surplus to requirements.

Although couched in reactive terms below the intention is that the policy will also be used by Council officers to bring forward sites for sale. These may be identified in many ways and any Council officer may instigate this process but it is anticipated that the housing asset review process within the HRA and increasingly the General Fund will generate the majority of sites that may be brought forward by this proposed change in the delegations. In these circumstances officers in those asset management roles would have undertaken at least the first filter checks but it is important for transparency and consistency in decision making, that the same process is undertaken in assessing both internal and externally generated disposal requests.

Disposal of small assets

Currently any disposal or grant of a lease over 7 years requires Cabinet approval. In order for the policy to meaningfully fast track the release of small surplus assets the expectation is that authority to dispose of assets meeting the policy criteria shall be delegated by Cabinet to the appropriate senior officer(s) in accordance with the policy.

On receipt of an application the Council will follow the following procedure.

First Filter - undertaken by relevant officer (SPS for GF or Asset Review for HRA)

Ownership of land / asset

The Council has the ability to dispose.

Status of land / asset

The status or current use of the asset is not any of the following:
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| <ul style="list-style-type: none">● Education land● Common land● Land managed by the borough Parks Service outside of the HRA whether parkland or otherwise● Land which is protected from development or otherwise constrained from development by any planning or other policy designation (e.g. Designated Open Space)● Residential / estate designated amenity space, playspace, existing community garden, bike store, bin store, pram shed or foot / roadway serving more than one residence or similar● Allotment Land● The asset has a total land area (including the footprint of any building or structure thereon) no larger than 500 sqm |
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If the proposal passes the first filter it will be passed to the Officer Review Group for a second filter assessment. This group will comprise appropriate officers from SPS, Asset Review, Housing Regeneration and Delivery, Housing Management, Regeneration and Economic Development. The group will apply the second filter tests to determine in their reasonable opinion if the site is suitable for disposal.

Second Filter Tests

Surplus to council requirements

The asset is **not reasonably required and is not expected to be required** in the foreseeable future for any of the following purposes:

- **Operational purposes** including requirements of council services or any other operational reason
- **Strategic Regeneration purposes** including development of the site itself by the Council or as part of an adjacent site, estate or neighbourhood-level regeneration or redevelopment programme

Financial value of asset

If in the reasonable opinion of a suitably qualified surveyor, assuming a future use compliant with council policies and the asset's scale and development potential, determines that the market value will be **no greater than** £1 million.

The valuation shall also reflect any additional value which the site might have to third-party development or business activity (e.g. a ransom strip or marriage value). This may be secured either at the point of transfer or through an overage or similar provision benefitting the council.

Non-financial value of asset

The asset does **not** provide significant non-financial value to the Council, borough or local community including but not limited to:

- Significant heritage, conservation or townscape value
- Established use for recreation or access.

Equally, consideration will be given to the impact of the current site usage on its locality and the implications that alternative uses would have for the local place and betterment of the borough.

If the site is deemed to have passed the second filter tests the officer working group will produce a potential disposal report identifying the site, its possible future uses and evidence that it has passed both first and second filter tests that will be circulated to the relevant Lead Cabinet member(s), ward members, senior officers and service areas who may reasonably have an interest in a disposal (e.g. Planning or Streetscene) but who are not represented at the officer working group.

Feedback from this consultation will be amalgamated into a recommendation report to either accept or reject the site for disposal. The report will be addressed to the Capital and Asset Steering Board (CASB) for consideration at their next meeting. If the meeting is cancelled or postponed or curtailed to such an extent that a report presented is not considered then the Chair will, following consultation with the Mayor, determine the decision on each case within ten working days of the scheduled date of the meeting. Members of the CASB may make any representations by email to the

Chair within five working days of a cancelled, postponed or curtailed meeting for due consideration by the Chair in coming to a determination.

The CASB will reach a consensus decision on whether to accept or reject the recommendation in the report i.e. there can be one of four outcomes. (1) To accept a recommendation to dispose (2) To accept a recommendation to not dispose. (3) To reject a recommendation to dispose (4) To reject a recommendation to retain and therefore to direct disposal.

Disposal directions

If the CASB directs a disposal then in respect of Housing Revenue Account (HRA) land to the Group Director of Finance and Corporate Resources to agree and settle all commercial terms, with the Director of Strategic Property confirming the best consideration requirements of the Local Government Act 1972 and Housing Act 1985 have been met in consultation with and the agreement of the Strategic Director of Housing and the Strategic Director of Economy, Regeneration and New Homes.

In respect of General Fund (GF) land to the Group Director of Finance and Corporate Resources to agree and settle all commercial terms, with the Director of Strategic Property confirming the best consideration requirements of the Local Government Act 1972 have been met.

In respect of both HRA and GF to the Director of Legal, Democratic and Electoral Services to agree and sign all necessary legal documentation.

Reporting to Cabinet

Disposals under this policy will be reported to the next available Cabinet via the Capital Update Report.

Marketing and sale

Where a site has no standalone development potential, for example if it is too small for even one residential dwelling or has no direct access to public highway, the asset shall be marketed to neighbouring landowners by letter and sold by informal tender or by private treaty to those responding.

Where the site has standalone development potential it shall be marketed and sold at auction or by private treaty at the discretion of the Director of Strategic Property mindful of the obligations of s.123 of the Local Government Act 1972.

Restrictions

The use of restrictions should be carefully considered on each disposal, particularly with the Council's obligations under s.123 LGA 1972 in mind. The valuation of sites with development potential but no planning permission should reflect the possibility of development along with the risk of not achieving consent so there is no particular reason to habitually use overage clauses for example. Restrictions or the reservation of rights may be desirable in certain situations such as to ensure the ability to maintain services or protect residential amenity and also where an originating applicant has expressly stated a particular use for a site and there is no other potential purchaser.

Costs

All costs incurred by the Council and the purchaser, including legal and valuation fees and council officer time, shall be agreed with and borne by the purchaser.

Communications with originating applicants

On receipt of an application the Council will acknowledge receipt and explain to the applicant the process and likely timescales. The Council will communicate the decision reached at Filters One and Two with further updates of timescales at these points. Similarly whatever decision is reached by the CASB will be reported to the originating applicant and in the event that it directs disposal the way in which the sale will be conducted.

Rejected applications will include reasons for rejection.

Appeals

At each stage the Council's decision is final.

Acquisition of small assets

From time to time it may be expedient for the Council to acquire land or property for the furtherance of its objectives. Examples of this are the acquisition of flats on Council owned estates either for use as general purpose housing or Temporary Accommodation.

Acquisitions are likely to be freehold, but the possibility of the acquisition of leases at rent in excess of seven years should not be discounted, particularly for use as Temporary Accommodation. In these circumstances the capitalised value of the rent should be used to assess whether the property meets the criteria for delegated acquisition. Other than housing acquisitions it is expected that this authority would be used sparingly for the purposes of site assembly to support the new homes delivery programmes, and the proposing officer would be required to make an evidenced and compelling business case for the acquisition of any property.

This case would be put to the CASB (as for disposals) for a decision and, after the conclusion of any purchase, it would be reported to the next available Cabinet meeting via the Capital Update Report.

The policy would delegate authority to the Corporate Director of Finance and Resources to acquire property up to a value of £1 million in a single transaction, in consultation with the Strategic Director of Economy, Regeneration and New Homes, the Strategic Director of Housing and the Director of Strategic Property Services.