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DRAFT Disposal Policy for Land and Property Including Land Related Transactions

**Strategic Alliance of High Peak Borough Council and
Staffordshire Moorlands District Council**

March 2025

Contents

- 1.0 Introduction
- 2.0 Background
- 3.0 Options for Disposal
- 4.0 Methods of Disposal
- 5.0 Declaring and managing a property surplus to requirements
- 6.0 Authority for land sales and commercial property transactions
- 7.0 Considerations when undertaking sales and commercial activities
- 8.0 Evaluation of offers
- 9.0 Late bids
- 10.0 Checking a purchaser's financial credentials
- 11.0 Acceptance of an offer
- 12.0 Documentation of disposal
- 13.0 Conditional offers
- 14.0 Community Asset Transfers

Appendices

- Appendix 1: Applications for Land Sales by Private Treaty

1. INTRODUCTION

Land dealings by local authorities attract public interest and Council policy and procedures must be defined clearly. The procedures should be open, transparent, consistent, competitive and market related otherwise they risk challenge.

The purpose of this policy is to set out the principles and rules by which the Council will acquire and dispose of land to inform Officers, Members and other interested parties.

It is important that each land disposal is treated on its own merits whereby the Council decides on a particular course of action on a case-by-case basis. Alternative methods of disposal, not specifically mentioned in this policy, may be used where appropriate, subject to approval.

The overall objective is to maximise the proceeds from disposal in accordance with this policy in an ethical manner, which meets statutory requirements and obligations. It is important that the procedures for disposal of land and property are sufficiently robust to ensure that prospective individual purchasers do not gain commercial advantage to the detriment of the Council.

This policy is to be read in conjunction with the Scheme of Delegation to Officers and Members, Financial Rules, Anti Money Laundering Policy, Procurement Rules and Strategy, and the Asset Management Plan.

2. BACKGROUND

To affect a disposal of land or property the Council must first have a legal interest in the land. The legal interest can be one of the following:

- A freehold interest
- A leasehold interest
- A licence to occupy
- A right of accommodation and services under a PFI contract
- A right of way or easement over property in the ownership or a third party
- A restrictive covenant over land in the ownership of a third party
- Any other legal interest in or pertaining to property ownership

For the purposes of this policy “disposal” means:

- The sale of the freehold interest, either in whole or in part
- The grant of a leasehold interest
- The grant of a licence, tenancy at will or management agreement
- The letting of a room(s) to a third party other than on an hourly basis
- The grant of third party rights over council land and property
- The release of restrictive covenants
- The grant or release of any other legal interest in or pertaining to property ownership

This Council is empowered to acquire, hold, use and dispose of land for its statutory purposes, by a variety of statutes. An officer who is preparing an acquisition, disposal or appropriation of land must ensure that the transaction is undertaken using the appropriate powers of the Council for that land and has regard to all legal requirements, including best practice guidance.

Disposal of land and buildings is an executive function. Decisions may therefore be made by the Cabinet/Executive, a Cabinet/Executive Member, or an officer of the Council as set out by the delegated powers.

Where statutory provisions for land disposals apply, these must take precedence over the Council's internal policies and guidelines. As such, disposal of housing assets under Right To Buy legislation is exempt for this policy.

Reports and decisions on the disposal of assets will usually be undertaken on a "not for publication" or "confidential basis". This is for the following reasons:

- to protect the Council's position and ability to obtain best consideration in future negotiations;
- to ensure that there are no opportunities for fraud, bribery or collusion; and
- to protect and respect the financial information relating to the individual bidders.

3. OPTIONS FOR DISPOSAL

Disposal under S123 the Local Government Act 1972 deals with all types of disposal, freehold, leasehold and short tenancy agreements.

The disposal of the Council's land and property can be progressed in a several ways and does not necessarily have to result in a freehold sale. The following options are available:

- i. Freehold disposal. The sale of the property with or without future covenants to restrict or protect future use.
- ii. Permanent grant of rights over land, for example, easement in fee simple.
- iii. Leasehold disposal. A leasehold interest can be agreed for any period. A leasehold interest of 7 or more years must be registered as an interest in land with the Land Registry. All leasehold disposals will be agreed outside the Landlord and Tenant Act 1954 to exclude business protection, unless the property is categorised as an investment property where terms will be agreed based on advice from an Independent Valuer to seek best consideration for the lease.
- iv. Non-permanent grant of rights over land. For example, an access licence, licence to occupy or wayleave.
- v. Short tenancy. Tenancy for a term of less than 7 years or the assignment of a term which at the date of the assignment has not more than 7 years to run. All short tenancy disposals will be agreed outside the Landlord and Tenant Act 1954 to exclude business protection. Short tenancies may be granted inside the Landlord and Tenant Act, 1954 on designated Investment Assets.

4. METHODS FOR DISPOSAL

Except where certain criteria apply, open market disposal will be the preferred method of disposal.

The following options will be considered:

- i. Open Market disposal, including Auction, Formal and Informal Tenders
- ii. Private Treaty disposal
- iii. Joint Development

The method for the disposal of assets will be assessed and determined on a case-by-case basis by reviewing all the options.

In principle, the Council will choose the method of disposal that provides best consideration, this may be more than just financial consideration and can include social, environmental and economic considerations as well as legal issues and will be the method that best secures the desired objectives/ outcomes for the land and/or property.

The authority for determining the method of disposal will align with the delegated authority for the disposal.

Officers will seek advice from Legal Services and external surveyors and valuers, where necessary, on the type and method of disposal.

4.1 OPEN MARKET DISPOSAL

For freehold disposal and long leasehold interests, properties will be advertised and marketed appropriately and offers will be invited. When appropriate, independent agents will be appointed to manage the advertisement and marketing.

Whenever possible, the Council or its agents will advertise for the disposal. This will be by way of an advert placed in appropriate media and on the Council's website.

When appropriate, advice will be sought on appropriate terms for disposal, including rent, from an expert or valuer. The Council may appoint advisors to make recommendations on which they consider to be the best consideration considering financial and non-financial benefits.

A guide price for marketing purposes may or may not be given depending on the circumstances. A period of marketing may be closed by inviting expressions of interest and sealed bids by an agreed date. This may be either a formal or informal approach as appropriate. Or the Council may decide to accept any offer at any time that it considers to be best consideration.

In some cases the Council may determine to appoint a suitable auction house to dispose of a property on its behalf.

For short tenancies of less than 7 years, the Council may decide to appoint an expert / valuer to recommend appropriate terms and/or market the property on the Council's behalf.

Proposed tenants and purchasers will be subject to a suitable financial health check as appropriate.

4.2 PRIVATE TREATY DISPOSAL

In certain circumstances the Council will consider disposing of an asset by Private Treaty sale. This involves the Council negotiating with a single third party to agree terms for the disposal. This can be used for all types of disposal but must be justified by meeting one or more of the following criteria:

- i. The proposed disposal involves both Council land or buildings and an adjoining property or piece of land owned or controlled by the prospective purchaser.
- ii. The disposal to a third party who, whilst not an adjoining landowner, would bring additional social, environmental or economic benefit “to the table”. (An example would be a sale to an existing major employer who could otherwise leave the area or a sale to a new major employer who would move into the area. Also, the sale to a Community Association who could provide wider community benefits or Parish and Town Council in line with Council priorities).
- iii. To enable a third party to relocate within the area, from a site that is “inappropriate”, usually in Land Use terms, e.g. a light industrial unit adjacent to residential properties, to a site that is more suitable, e.g. an industrial estate or out of town location.
- iv. To enable the purchase of another site, that the Council considers necessary to meet its priorities and objectives.
- v. The disposal to an existing tenant or proven legal occupier of the land.
- vi. For the grant of permanent and non-permanent rights as, by definition, these are normally a request from a third party.

In all circumstances, a private treaty disposal would seek to produce financial and/ or non-financial benefits, such as increased capital receipt through marriage value of an adjoining site, social, economic or environmental benefits, which would be at least equivalent to those obtainable through an open market disposal.

This may require a valuation to be carried out by a third party valuer to evidence that the Council is receiving best consideration for its holdings.

The Council will look to deal with applications for purchase from individuals where the above applies when and how resources allow. The Council will prioritise disposals in accordance with the Council’s best interests.

The procedure for applications to the Council to consider a disposal by private treaty is set out in appendix 1 of this document.

If Private Treaty can be justified for a freehold or a leasehold of more than 7 years, an expert or valuer may be appointed to advise or negotiate on the Council’s behalf. For short tenancies of less than 7 years, an agent may be appointed where necessary. Appropriate legal advice, up to and including counsel’s opinion, where necessary, as to the legality of the proposed arrangements, with reference to all relevant Local Government Acts and Regulations will be obtained.

4.3 JOINT DEVELOPMENT

Where a redevelopment proposal includes Council land or property and adjoining land, the Council may choose to pursue a joint development with the adjoining landowner and/ or a developer or Registered Social Landlord (RSLs).

The details of a joint development arrangement are likely to differ from scheme to scheme but will broadly involve sharing the cost, risk and return from the project.

The benefits and risks of pursuing this method of disposal would require detailed assessment as part of the appraisal for the development. This is likely to be a viable option for large development projects only.

Joint development proposals are to be approved by Cabinet/Executive or Council only.

4.4 DISPOSAL BY SHORT TENANCY

Although not required within the Local Government Act 1972, best consideration should be obtained for all short tenancy agreements unless a 'less than best consideration' can be justified by way of social, economic or environmental benefits.

Where appropriate, an agent and/or valuer is to be appointed to recommend appropriate terms, including rent.

Property is to be advertised in accordance with open market disposal unless criteria for a private treaty disposal can be justified and is deemed to be the most viable option.

5. DECLARING AND MANAGING A PROPERTY SURPLUS TO REQUIREMENTS

It is recognised that if the Council is to enhance the effective management of property then one of the foundations is a clear procedure for identifying and managing surplus and vacant property and land.

A site will be determined as surplus for disposal following a property review and option appraisal if it meets all the following criteria:

- It makes no contribution to the delivery of the Council's services and is unlikely to be required for service delivery in the future.
- It is no longer appropriate for service provision.
- It has no potential for future strategic or regeneration/ redevelopment purposes (including affordable housing).
- The net income generated from the site is below that which could be achieved from disposing of the site and investing the capital receipt/ proceeds.
- The land or property is not adjacent to a larger area of land or property in the ownership of the Council.
- That the disposal does not have a negative impact on the MTFP.
- Best financial consideration is to be obtained unless social, environmental or economic benefits are provided.
- The method of disposal will be determined on a case-by-case basis.

- Any leasehold disposal transfers all liabilities to the tenant.

Prior to final disposal, any short term intermediate use shall be by way of a short tenancy with a term of less than 7 years, with a landlord break clause at no more than 6 months notice.

Upon confirmation that the property has been declared surplus to requirements, the Asset Team will liaise with the Finance Team to develop a disposal plan for the property. This will cover cost elements such as timing of disposal, condition of property on disposal, marketing periods, fees etc.

A budget must be identified by the service prior to declaring the property surplus.

6. AUTHORITY FOR LAND SALES AND COMMERCIAL TRANSACTIONS

The Constitution of the Council sets out the Scheme of Authority for dealing with land and property and this policy reflects this. There are various types of activities, and these are set out below:

1. Minor Disposals

These are land and property transactions including freeholds, leaseholds, tenancies and licences to occupy for terms of over 1 year, to a value not exceeding £25,000.

Officers are to consult and agree with the portfolio holder and ward members, prior to disposal unless the asset designation is that of an “investment asset”.

2. Major Disposals

Any disposal of freehold or long leasehold land and property transactions with a value exceeding £25,000 require a formal approval from the Cabinet /Executive by way of a formal report.

Officers are to consult with ward members and portfolio holders at the appropriate times before finalising a formal report for approval. This report will be subject to such scrutiny as the Council’s Constitution sets out.

3. Other Disposals

Officers will conduct and implement the activities listed below without consultation with the portfolio holder or ward members unless the matters are determined to be of relevant interest in respect of the guidelines within this policy.

3.1 The grant or renewal of a simple licence for a term of less than 1 year or less including wayleave, including the installation of statutory undertakers of apparatus.

3.2 The granting of consents or approvals (including assignments, sub-lettings, terminations, alterations, extensions and other variations to agreements) under the terms of any covenant, lease, licence or tenancy.

- 3.3. The day to day management and letting of the Council's designated Investment Assets including commercial property, industrial units and shops and non-operational land, including the negotiation and agreement of lease renewals and rent reviews in respect of properties held on any lease, licence or tenancy from or by the Council.
High Peak Borough Council only. This excludes Pavilion Gardens, and those commercial properties contained within the Council's housing estate, where additional consultation with appropriate internal service areas will be required.
- 3.4 Granting licences of garages or over garage sites.
- 3.5 Authorising the sale of areas of amenity land to people who have purchased a Council dwelling (or their successors) previously.
- 3.6 Renewal or assignment of any lease or tenancy.
- 3.7 To contract out of leases (and licences where appropriate) tenants' rights to renewal of a lease under the Landlord and Tenant Act 1954.
- 3.8 **High Borough Council only.** Authorising notices under Section 21 of the Derbyshire Acts 1981 (preventing horse-riding, motor vehicles etc on land maintained by the Council).
- 3.9 Taking whatever action may be appropriate for the protection of the Council's land and property.
- 3.10. To make all applications for planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992 for development of land in the Council's ownership.

7. CONSIDERATIONS WHEN UNDERTAKING OF SALE AND COMMERCIAL ACTIVITIES

The council will consider a wide number of factors when considering a sale of its land and property assets.

7.1 Formal Approvals

Both minor and major disposals as set out in section 6 will be subject to consultation with the portfolio holder during the first stage review of the transaction. Consultation with the appropriate ward councillors will then be undertaken. Additional consultation with internal council services will be undertaken as required.

Once the review has been completed it will proceed through the stages identified in this policy. A formal report will be issued by the Executive Director for either approval by the portfolio holder (minor disposal) or by Cabinet/Executive (major disposal), The Council reserves the right to escalate any formal to decision to a Cabinet/Executive approval should the circumstances require.

7.2 Best Consideration

The Council has wide powers for the disposal of its land and property assets. The over-riding requirement is that best consideration must be obtained. The Council has a duty under Section 123 of the Local Government Act 1972 to obtain “best consideration.

Best consideration is not limited to the purchase price but may include a term or condition attached to the disposal which identifies a specific commercial benefit to the vendor. These conditions are referred to as voluntary conditions.

Conditions attached to the disposal which may have a quantifiable commercial or monetary worth could include:

- Covenants requiring the land to be used for a particular purpose;
- A pre-emption clause giving the vendor the option to buy the land back on specified terms if the purchaser wishes to sell it;
- A provision in the contract enabling the authority to recover land on the terms reflecting the consideration for which it was disposed of, if the land is no longer being used for the purposes for which it was disposed of at less than best consideration.

Conditions or benefits arising that cannot be considered when calculating best consideration, include those that do not have a direct commercial or monetary value to the Council such as:

- Job creation;
- Social value – i.e. improved visitor numbers to a particular area;
- Using the land for a particular desirable purpose.

However, these conditions can be considered if a disposal at less than best consideration is proposed as they are “social, economic or environmental benefits” which may arise from the disposal.

7.3 Less than Best Consideration

It is recognised that there may be circumstances where the Council considers it appropriate to dispose of assets under value (i.e. less than the best consideration that can reasonably be obtained). This circumstance would be where the disposal is likely to contribute to the achievement of:

- the promotion or improvement of economic well-being;
- the promotion or improvement of social well-being; and/or
- the promotion or improvement of environmental well-being.

These factors will only be given consideration if the best price reasonably obtainable for the property does not exceed £2,000,000 (two million pounds).

The Council recognises that best consideration does not necessarily mean the highest financial offer available. The decision whether to accept any offer(s) will consider an evaluation of the financial considerations as well as the substance and strength of any supporting material submitted with the offer (excluding sale by public auction where supporting material is not an option).

Supporting information can lead the Council to accept a lower offer where it has justifiable doubts, for example, about the financial security of a bidder or a bidder’s commitment to a proposed scheme.

7.4 Professional Advice

It remains the responsibility of the Council to seek its own legal or other professional advice on land disposal as officers consider appropriate. It must comply with normal and commercial practices including, if required, the view of a professionally qualified valuer and expert in the relevant area as to:

- what financial consideration it should expect to achieve;
- the likely amount of any under-value; and
- the most appropriate method of disposal to encourage bidders to offer the best consideration.

This will be referenced in a Disposal Report.

7.5 The Disposal Report

The level of detail within the report for each transaction for land sales activities will depend on the complexity of the transaction and may include the following:

- State aid rules
- Valuation
- External Consultants reports
- Operational Requirements
- Specific Outcomes from disposal
- Development Potential
- Consultation with Local Planning Authority
- Consultation with Ward Councillors
- Estimate of Open Market Value
- Agreed Sale Price
- Financial Credentials of purchaser
- Sale Strategy
- Suitability
- Title Deeds
- Covenants
- Reserve Rights of Way
- 3RD Party Interests
- Physical Constraints
- Unauthorised encroachment or presence of utilities
- Ground condition
- Statutory Undertakers
- Planning guidance
- Conservation
- Tree Preservation Orders
- Environment Agency
- Consent from Funding Bodies
- Secretary of State's Consent

7.6 Restrictive Covenants

Where the Council is specifically seeking to control or safeguard the future use of a property through the disposal to achieve a policy objective over and above control by normal planning enforcement methods, negotiations should seek, where possible, to secure the inclusion of restrictive covenants within the sale/lease documentation.

Where a degree of control is required to be maintained, e.g. for the protection of surrounding uses, the grant of a leasehold interest rather than the disposal of the freehold will almost certainly be required.

This practice may result in difficulties in the funding of a development. Care should be taken that the voluntary imposition of covenants, e.g. a restrictive user clause, does not detract from the value of the site, as this may require the Secretary of State's consent.

7.7 Building covenants / Clawback options

To ensure that a purchaser does not hold the property purely for speculative purposes, a freehold disposal can be preceded by the grant of a Building Licence or lease, which would include building covenants, although again this may cause funding difficulties in certain circumstances. An informed view must be taken in each case.

In certain cases, it may be expedient to consider the merits of partnership or joint venture arrangements that allow for the Council to share in future profits, e.g. via clawback provisions. Such arrangements are generally more suitable to disposals of land where the future market is particularly uncertain or where there is a potential for longer term gains.

7.8 Consultations

The following people and organisations can be consulted on a land and property transaction:

7.8.1 The Leader of the Cabinet/Executive and the Portfolio Holder

The Leader of the Cabinet/Executive and Portfolio Holders will be advised on proposals as per this policy.

7.8.2 Ward Members

Ward Councillors will be consulted as part of the initial recommendation report in relation to land sale activities. Their comments will be included in the final report.

7.8.3 Members of the Public

Certain disposals require that the intention to dispose is publicly advertised and that any objections to the disposal are considered before the disposal is confirmed. The disposal of any legally designated public open space would adhere to this.

7.8.4 Partner organisations and the Voluntary and Community Sector

Where there is an opportunity for the re-use of the building or land through sharing of services or full use by a partner organisation such as the County Council, NHS, Fire or Police then this will be explored prior to disposal.

Where the asset meets the eligible asset criteria in relation to effective Community Management then the asset could be made available to community groups prior to placing on the open market where appropriate.

8. EVALUATION OF OFFERS

Following the submission of offers, whether by open marketing or private treaty, discussions with the individual bidders may take place to confirm the terms of their offer and review any elements of the bids which are unclear.

9. LATE BIDS

Each 'late bid' must be considered in the context of the individual circumstances at the time. The Council's approach to 'late bids' will vary depending upon the method of disposal used. In each case, its over-riding duty will be to obtain the best consideration that it can reasonably obtain.

The Council's approach to late bids is as follows:

- The Council discourages the submission of late bids in all cases when it is disposing of land and buildings. It will attempt to minimise problems by aiming for early exchange of contracts.
- Where land is being disposed of by way of formal tender, bids received after the deadline for tenders, or bids that advise that further information required for the bid will be provided at a later date (such as full business case in support of a community asset transfer proposal) will be recorded as late, together with the time and date of receipt. Head of Assets will decide whether to consider late bids after taking advice from Democratic Services and Legal Services.
- Except in the case of formal tender, until the Council has entered into a legally binding contract or agreement with another party, it will consider late bids unless there are good commercial reasons for not doing so. This should be explained to any purchaser when a disposal of land by private sale or negotiated / informal tender is agreed.
- Consideration of a late bid does not mean that it will necessarily be accepted even if it is the "highest" bid. The Council will consider the likelihood of the late bid proceeding to completion in a timely manner and the possibility of the late bids being used as a spoiling or delaying tactic. The Council also needs to consider whether there has been any collusion or bribery involved in establishing the level at which the late bid is submitted, for instance where detail of the level of submitted offers is made public or is provided to non-bidders and then a bid is submitted which is higher than that received previously. For this reason, other than in a public auction, the level of the bids, and the identity of the bidders is kept confidential until such time as contracts for the disposal of the site are exchanged.
- Subject to the above, the Council may, in appropriate circumstances, ask both the late bidder and other interested parties, to submit their best and final bids in a sealed envelope.

10. CHECKING A PURCHASER'S FINANCIAL CREDENTIALS

In sales by tender and private treaty the creditworthiness of the bidder should be examined before acceptance of an offer. This will include review and interrogation of financial information, such as business plans, funding streams etc supplied by the bidder. The effort devoted to this examination should always be proportionate to the value of the property.

In auction sales, acceptance of a bid results in a binding contract with the purchaser having to pay a deposit immediately. Therefore, it may not be practical or feasible to check on bidders' creditworthiness, unless in respect of larger disposals (say greater than £2m value) where efforts to do so may still be advisable.

Where a disposal proposed at an undervalue, by way of a direct reduction in the market value (disposal) or a grant provided towards the market rent, then the Council should make sure that the recipient of the benefit has robust and deliverable business plans, including good governance, robust financial planning and all the necessary policies, procedures expected.

Consideration should also be given towards the use of bonds, rent deposits, and guarantors as part of any disposal to protect the ability of the Council to achieve the stated rent or capital receipt in future.

11. ACCEPTANCE OF AN OFFER

Unless the initial approval process to declare the property surplus and available for disposal identified a specific outcome from the disposal then there is a presumption that delegated powers will be used in relation to land and property disposals, and that unless in the opinion of the Council's professionally qualified valuers consider that the highest offer is unrealistically high or artificially low, then the highest offer will be accepted.

The unrestricted value is the best price reasonably obtainable for the property and should be expressed in capital terms. Where the Council has invited tenders and is comparing bids, the unrestricted value is normally the highest bid. But where, on advice of the valuer, the Council considers that the highest submitted tender is unrealistically high, or is too low, the unrestricted value may be assessed by the valuer.

The report as outlined in this policy will reference any offer or disposal situation which includes any proposal to dispose of an asset for less than best consideration to be considered by Cabinet/Executive.

12. DOCUMENTATION OF THE DISPOSAL

Following formal approval to proceed with the offer, detailed terms will be agreed between Assets, Legal Services and the purchaser. There will usually not be any reason to seek further approvals regarding the disposal unless, following site investigations, planning requirements or other due diligence issues cause the net price to fall below the net price of the underbidder. At this point, the Council Leader will be consulted, or a revised report will be issued dependant on the circumstances and the value.

13. CONDITIONAL OFFERS

In private treaty of tender sales and where land is being sold for development purposes, offers may be received, or sometimes even be invited under the marketing campaign, where all or part of the receipts will depend on the outcome of the purchaser's scheme. Conditional offers will usually involve some sort of deferred completion.

Typical conditions attached to an offer includes, subject to site investigations, subject to vacant possession, subject to planning permission, subject to affordable housing requirements. Usually, the offer is made on a gross basis and then deductions are requested. For instance, where the site investigations have proved unsatisfactory, or a higher level of affordable housing than budgeted for is required as part of the planning permission. These deductions are requested on an open book basis and are standard practice – the alternative would be to request net bids with no further deductions allowed, which will almost always be less than the gross bid plus costed deductions and is therefore not recommended.

In such cases, it is essential to consider the way changes in the market prior to completion may affect the receipts and to weigh this and any other inherent risks against other offers or ways of disposing of the property. The contract should provide express time limits for actions which are the intending purchasers' responsibility for example applying for planning permission. It should also have provisions that prevent indefinite or lengthy delays in completion.

The use of staged payments of the consideration monies may be helpful in off-setting these risks, but other possible approaches may also be feasible.

14. COMMUNITY ASSET TRANSFER

The purpose of community asset transfer is to enable the transfer of under-used land and buildings from the public sector to community ownership and management - helping organisations to develop those assets and deliver long-term social, economic and/or environmental benefits that may not otherwise be achieved.

The Council will consider requests for an asset transfer to a community organisation where the organisation can provide an adequate business case and where the transfer would meet the Council's priorities and objectives. It is noted that Local Government Reform may result in an increase in the number of requests for Community Asset Transfer, the Council will consider these requests and undertake the necessary consultations as detailed in 7.8.

The Council will seek best consideration for the transfer unless social, environmental, and/ or economic benefits are provided.

The Council may, where appropriate, agree covenants or overage clauses to deal with additional development.

APPENDIX I

APPLICATIONS FOR DISPOSALS BY PRIVATE TREATY - PROCESS

The Council receives direct requests for land to be purchased by private treaty. This appendix sets out the procedures to be applied with be in line with this policy.

A case officer will determine on application whether a sale by private treaty is appropriate and meets the criteria set out in section 4 for the specific land in question and will inform the applicant at the first stage review.

The Council will charge for this service. The customer will be asked to apply in writing with a plan identifying the land/property and the registered title number, stating the reasons for wanting to purchase the land/property and its intended use, together with the non-refundable "Stage1 Administration Fee".

Non-refundable Stage 1 Administration Fees:	Fee Total	VAT @ 20%
Fee1 Requests for information only	£50.00	£60.00
Fee 2 All other applications	£90.00	£99.00
Fee 3 Request for temporary consent to occupy/cross Council land.	£90.00	£99.00

The Council requests the right to charge an additional administration fee depending on the complexity of the situation and the value of the transaction.

Most land sales are envisaged to commence at the cost of the interested party. The Council will inform the potential purchaser that they will be liable for the valuation cost (inc VAT). The fees will not be refunded regardless of the reasons for the sale not to proceed.

The Council will not accept a valuation commissioned by the potential purchaser. The Council will arrange a valuation of its own choosing and will pass the direct costs on to the potential purchaser. The Council will not commence with a valuation without receiving the cleared funds for the valuation costs.

The valuation will be expected as setting out a defined land value and at enquiry stage the potential purchaser will be informed that the Council will seek the value set out in the valuation and explain the legal basis on which land sales can proceed.

The applicant will be expected to pay the Council's legal fees as well as their own if the matter goes ahead.

All fees are non-refundable. If a customer requires information on who owns a piece of land, the enquirer will be asked to check with The Land Registry or pay Fee 1 as set out above, for confirmation of the Council's ownership.

The Council cannot provide an exact timescale for a decision to the request as it will depend on the complexity of the request. The Council will keep the customer up to date during the process.

Once the decision has been formally approved it will then be implemented by Council Officers. The applicant will be advised in writing if the Council's decision is to refuse the request. There is no appeals procedure, but if the recipient provides additional information or justification to support the application that has not already been considered, or if the application is amended, it may be possible to process the application again, based on the new information. A further administration fee may be required on receipt of the revised application if it involves undertaking the consultation process again.

The Stages of Land Sales

STAGE 1

Applicant is informed of the process to acquire the land, though the Council retains the right to vary these steps depending on the situation. This will include the potential costs, including covering the valuation fee and legal fees for the transfer. An administration fee is required to start the process. The applicant will be made aware of the likely timescales for an officer to process their request.

STAGE 2

Applicant submits administration fee signing an agreement setting out fees and charges.

STAGE 3

The case will be designated to a case officer who will carry out an Initial Review to determine whether the asset is suitable for disposal by the method of private treaty. Internal services as well as ward members and the portfolio holder will be consulted at this stage. The applicant will be informed whether the application will be progressed at the end of this stage. The time taken to carry out the first stage review will depend on the complexity of the land in question.

STAGE 4

The land will be subject to a valuation and the applicant will need to pay for the cost of the valuation before the valuer is instructed.

STAGE 5

The valuer will provide a report, which can be issued to potential purchaser.

STAGE 6

If the potential purchaser wishes to proceed at the valuation figure, then officers will progress and process matters for an authority in accordance with this Policy.

STAGE 7

The purchaser will be informed of the final decision. If the decision is to proceed with the sale, the applicant will be required to agree to pay the Council legal fees, and the matter will proceed to contract exchange.

Any change to the agreed terms as set out in the formal report will trigger a revised decision which will have to go through the relevant formal procedure again for another approval. The Council reserve the right to charge another appropriate administration fee to cover these additional costs.