

Executive Report

Ward(s) affected: All

Report of Director of Strategic Services Dawn Hudd

Author: Melissa Bromham, Deputy Head of Asset Management

Tel: 01483 444587

Email: melissa.bromham@guildford.gov.uk

Lead Councillor responsible: Tim Anderson

Tel: 07710 328560

Email: tim.anderson@guildford.gov.uk

Date: 21 September 2021

Approval of the Land & Property Disposals Policy and Guidance Document

Executive Summary

The Council owns a range of properties which it periodically reviews to ascertain whether they are required for the Council's purposes. The Council also receives unsolicited applications from existing occupiers to acquire land and assets.

Local authorities have the freedom to dispose of their land in any manner they wish but this is closely regulated by law. This, together with a desire to ensure consistency and fairness, has highlighted the need for the Council to revise and formally adopt a policy setting out how it will dispose of land in the future.

Recommendation to Executive

That the Executive formally approves the Land & Property Disposal Policy and Guidance Document ('the Policy') shown in Appendix 1 to this report.

Reason(s) for Recommendation:

To adopt a formal policy in respect of the mechanism of land disposal in order to ensure that relevant legislation is complied with and enable the Council to ensure its land disposal procedures are transparent, whilst making the best use of its resources and achieving best value, therefore underpinning the Council's strategic framework and the delivery of the corporate plan.

Is the report (or part of it) exempt from publication?

No

1. Purpose of Report

- 1.1 Officers request that the Executive formally approves the Land & Property Disposals Policy and Guidance Document, shown in Appendix 1 to this report, to ensure its land disposal mechanisms are transparent, whilst making the best use of its resources.

2. Strategic Priorities

- 2.1 The Land & Property Disposal Policy and Guidance Document supports the Council's commitment to be open and accountable as set out in the Council's strategic framework and the Council's mission within its Corporate Plan to be "an efficient, innovative and transparent Council that listens and responds quickly to the needs of our community".
- 2.2 Having in place a Land & Property Disposal Policy will enable the Council to ensure its land disposal procedures are transparent, whilst making the best use of its resources, therefore underpinning the Council's strategic framework and the delivery of the Corporate Plan.

3. Background

- 3.1 The Council owns a range of properties for occupational, strategic and investment purposes.
- 3.2 The Council periodically reviews all its properties (investment and operational) to ascertain whether they are required for the Council's purposes and in response to the need to significantly reduce expenditure. This will lead to a decision to retain or dispose of the land or property.
- 3.3 The Council also receives unsolicited applications from existing occupiers of properties and from unrelated third parties enquiring as to the availability of Council land and assets.
- 3.4 Local authorities have the freedom to dispose of their land in any manner that they wish subject to certain provisos prescribed within the following major Acts, other Acts and General Consents:
 - s123 (Disposal of land by principal councils) and s127 (Disposal of land held by parishes and communities) of the Local Government Act 1972;
 - s32 of the Housing Act 1985 (as amended); and
 - s25 of the Local Government Act 1988.
- 3.5 The Local Government & Social Care Ombudsman (LG&SCO) considers it good practice for local authorities to have in place a comprehensive set of guidelines outlining their own approach to land disposals.

- 3.6 The above regulations, together with a desire to ensure consistency and fairness, has highlighted the need for the Council to revise and formally adopt a policy setting out how it will dispose of land in the future.
- 3.7 This Policy will be subject to regular review by the Head of Asset Management (Climate Change Lead) with the aim of seeking continual improvement in the standard of asset disposal across all Council services. Any changes to the Policy will be considered and discussed with the Lead Legal Specialist and, where relevant, the Head of Housing.
- 3.8 The success of the Policy will be measured by the number of times each year the Council receives a formal complaint relating to the disposal of a Council asset. The Head of Asset Management (Climate Change Lead) will monitor any issues that may arise that do not reach the seriousness of a formal complaint but warrant a further look at improving processes outlined in this Policy.

4. Consultations

- 7.1 The Lead Councillor for Resources has been consulted as have the Executive/Management Team Liaison Group, Corporate Management Team, relevant Services, the Legal team and Policy team. As this is an internal document, no public consultation has taken place.

5. Key Risks

- 5.1 The key risk to the Council of not adopting a formal policy for the disposal of land is that it may fall foul of compliance with its statutory obligations and potentially not receive best value for its assets.

6. Financial Implications

- 6.1 It is considered that approval of this report will not have any specific financial implications. However, each project/disposal will have significant financial implications for the Council, as there should be capital receipts from the sale of any land or assets.

7. Legal Implications

- 7.1 Local authorities have the freedom to dispose of their land in any manner that they wish subject to certain provisos prescribed within the following major Acts, other Acts and General Consents:
- s123 (Disposal of land by principal councils) and s127 (Disposal of land held by parishes and communities) of the Local Government Act 1972;
 - s32 of the Housing Act 1985 (as amended); and
 - s25 of the Local Government Act 1988.
- 7.2 This document covers Guildford Borough Council's policy and internal guidance relating to land disposal. "Disposal" in this case means the sale of a freehold

interest, an assignment of a lease (which at the date of the assignment there is more than seven years to run), the grant of a lease for more than seven years, and the granting of easements and options.

- 7.3 Whilst the purpose of the document is to make the Council's land disposal procedures transparent, it is important to note that each land disposal should be treated on its own merits and nothing in the Policy will bind the Council to a particular course of action in respect of a land disposal. Alternative methods of disposal, not specifically mentioned in this policy, may be used where appropriate, subject to obtaining proper authority.
- 7.4 It should also be noted that this document is not intended to cover the criteria or decision making process on what land or property is to be retained or disposed of but purely the mechanism by which land or buildings are to be disposed of.
- 7.5 The Council's Constitution prescribes the procedures that the Council must adopt for the disposal of land. Where statutory provisions for land disposal apply, these must take precedence over the Council's internal policies and guidelines.
- 7.6 For major General Fund disposals not delegated to the Head of Asset Management (Climate Change Lead), recommendations are presented to Executive, with the committee taking the final decision as to whether and how to dispose of land. Ultimate responsibility for strategic management of the Council's property portfolio rests with the Executive.
- 7.7 For major Housing Revenue Account disposals not delegated to the Director of Service Delivery, recommendations are presented to Executive, who take the final decision as to whether and how to dispose of the land.
- 7.8 Decisions taken by the Executive are recorded in the minutes of the meeting and may be inspected on the Council's website. Decisions taken by officers under delegated powers are documented (including appropriate authorisations) and records maintained and unless commercially sensitive published on the Council's website. These decisions are to be taken in consultation as appropriate with the relevant Councillors in accordance with the Constitution.
- 3.9 This policy will be subject to regular review by the Head of Asset Management (Climate Change Lead) with the aim of seeking continual improvement in the standard of asset disposal across all Council services. Any changes to the policy will be considered and discussed with the Lead Legal Specialist and, where relevant, the Head of Housing.
- 3.10 The facts of each intended disposal and the precise relationship between the parties are likely to be different at least in detail of each case and the guidance must be applied in the light of specific circumstances. Where any disposal is being considered the Council must obtain specific legal advice before proceeding.

8. Human Resource Implications

- 8.1 No HR implications apply.

9. Equality and Diversity Implications

- 9.1 Public authorities are required to have due regard to the aims of the Public Sector Equality Duty (Equality Act 2010) when making decisions and setting policies.
- 9.2 To understand the potential impact of the recommendations and proposals on equality, an Equalities Impact Assessment was produced and is shown in Appendix 1 of the attached Policy.

10. Climate Change/Sustainability Implications

- 10.1 Where there are wider public benefits, consistent with the principles of Best Value, the Policy considers disposal of assets at less than Market Value taking into account wider value considerations such as economic, environmental and social value factors.

13. Summary of Options

- 13.1 To adopt a formal policy in respect of land disposal to ensure that relevant legislation is complied with and enable the Council to ensure its land disposal procedures are transparent, whilst making the best use of its resources.
- 13.2 Not to adopt the Policy, which may cause the Council to fall foul of compliance with its statutory obligations and potentially not receive best value for its assets.

14. Conclusion

- 14.1 This report sets out that to ensure compliance with the law, a fair and consistent approach to disposals, and to obtain best value, the Council should consider adopting a formal policy for the disposal of Council owned land.
- 14.2 The Land & Property Disposal Policy and Guidance Document shown in Appendix 1 to this report will ensure that land disposal procedures are transparent, whilst making the best use of the Council's resources.

15. Background Papers

None.

16. Appendices

Appendix 1 – The Land & Property Disposal Policy and Guidance Document