

# Property Management Policies



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# **1. PROPERTY DIOPOSAL POLICY**

## **1. Introduction**

This policy states the procedure to be adopted to dispose of property surplus to requirement and underutilised property.

Gwynedd Council has designated every property as a corporate resource. It recognises that the Authority may have property that is of no assistance in providing services or that does not meet the non-operational portfolio's objectives (property that is not retained for the purpose of direct service provision)

The need to justify retaining such property is a basic principle of good asset management.

The Council will continue to identify property that is surplus to requirement or property that is underutilised and, wherever possible, can be disposed of.

## **2. Definition of Property Surplus to Requirement / Underutilised Property**

It is believed that the Council does not require a property if:

It doesn't contribute to the Council's function of providing services

No possible strategic purposes or refurbishment / redevelopment in the future can be identified

Another site is identified which could be used to provide a more cost effective service

It is believed that a property is underutilised if:

- The income raised from the site is less than could be obtained from:
  - Utilising it for another purpose
  - Disposing of the property and investing the income
  - Intensifying its present use
- Part of the property is empty and is likely to be empty for the foreseeable future

## **3. Identifying Sites for Disposal**

It is possible to identify sites for disposal as follows:

- They have been identified for a specific use in the Local Development Plan
- By the Service Department declaring that specific sites are no longer required
- By accepting applications from developers, the Council's public partners or individuals to purchase for a specific purpose
- Following an area Property Review
- By constantly checking the Assets' Register

#### **4. Methods of Disposing of Property**

The Senior Manager - Corporate Property will be responsible for adopting the most appropriate method of disposing of property.

However, in order to fulfil its duty under Section 123 of the Local Government Act 1972 and the policy adopted by the Council under the title "Disposal of Land for Less Than its Market Value", the Council must realise the best price it can reasonably obtain for each property declared surplus to requirement. It is only under exceptional circumstances that the provisions in General Disposal Consent (Wales) 2003 can be considered.

Therefore, Council policy is to dispose on the open market so that every interested party has the opportunity to purchase, to ensure the best price and to show transparency.

There are also pieces of land that only have only one possible buyer because of their size, nature and location. Offering these on the open market would be a waste of time and resources. Indeed, doing so would more than likely lead to only one offer for a derisory sum. In such cases, it is suggested that the property should be disposed by private treaty to the one possible buyer. Even then, specific consent must be obtained in every single case. The property will be disposed of at Market Value.

In some circumstance the Council may require land to be disposed of for a specific purpose, for example in order to increase employment. In such cases, the agreed proposed use should be defined in detail and appropriate planning permission obtained before the property is offered on the open market. Every party which satisfies the conditions should have an opportunity to procure the property.

It is possible under some circumstances that the Housing Service will require land to be sold to a Registered Social Landlord to develop accommodation to meet local housing needs. In such circumstances it is considered that the Council is in partnership with the Registered Social Landlord and usually the Council will retain the right to appoint tenants for the accommodation. In such a situation the land will be disposed of directly to the Registered Social Landlord at a price to be determined by the District Valuer who will be acting on behalf of both parties.

#### **6. Land Compulsory Purchased**

Generally, when land surplus to requirement is believed to have been purchased under compulsion, or under threat of compulsion, that land should be offered, in the first instance, to the original owners or their successors.

There are exceptions to this requirements, for example, agricultural land bought before 1935, land that has changed in character, has been developed or is part of a larger site and would decline substantially in value were it divided.

If the original owner has no interest in buying the property or if it is not possible to agree terms within two months, the Council can dispose of the property on the open market.

#### **7. Marketing Strategy**

The Senior Manager - Corporate Property will be responsible for implementing the marketing strategy, either internally or through external bodies.

All costs associated with any possibility of disposing of property (even if these costs do not lead to an actual disposal) will be set against the Service Department / or the proportion allowed of the final capital receipt. These costs include marketing and valuation costs, security and energy costs when the property is not in use and any other costs to facilitate disposing of the property.

**8. Constitutional consent**

The Senior Manager - Corporate Property will prepare a Decision Notice for the consideration of the Cabinet Member with responsibility or Property matters, unless it is a case of selling for less than market value.

**9. Capital Receipts**

Following a capital receipt from disposing of a property, 20% will go to the Service (up to a maximum of £20,000) and the balance to the corporate pot to fund the priorities of the Corporate Asset Strategy.

Services will have the opportunity to apply to use a higher proportion of any capital receipt through the capital requests route or by seeking specific consent from the Cabinet.

**12. Revenue Savings**

These are the savings that property users would, ordinarily, have to pay for annually from budgets for property that have now been disposed of. They include:

- Energy costs – electricity, gas, water etc.
- Rates
- Testing firefighting equipment and portable appliances
- Site management costs – caretaker, cleaner, land maintenance etc.

The revenue savings accruing from disposal of property will be recycled in accordance with the Council's Efficiency Savings policy.

It should be noted that any repairs and maintenance savings will not be considered as savings but rather will be reinvested in the remainder of the Council's property portfolio.

## **2. POLICY FOR DISPOSING OF PROPERTY FOR LESS THAN THE BEST CONSIDERATION**

### **1.0 BACKGROUND**

The General Disposal Consent (Wales) 2003 which came into force on 31 December 2003 provides general consent which removes the requirement for Local Authorities to obtain specific consent from the Assembly for the wide range of lands that are sold for less than the best consideration. Authorities have consent in circumstances where the undervaluation is not more than £2 million and removes the requirement for authorities to seek specific consent for any disposal at an undervalue where the authority considers that the disposal is in the interests of the economic, social or environmental wellbeing of the whole or any part of its area, or any or all persons resident or present in its area. It is the Local Authority that considers whether any particular building or land which is to be sold meets these criteria or whether specific consent is still required under the Local Government Act 1972.

When considering whether or not land should be sold for less than best consideration, the Authority should seek the opinion of a professionally qualified valuer about the likely sum of the undervaluation. Additionally, legal advice should be sought on whether the property or land that is being disposed of falls within the terms of the consent. The Government advises that it might be useful for Councils to inform the auditor appointed of any legal advice it may receive and the steps it proposes to take.

Local Authorities must be able to show that they are acting reasonably in agreeing to dispose for less than market value; it is unlikely that prospective buyers, buyers who believe they have been wronged or who have been unsuccessful (or even local residents) will accept the decision in all cases. Being able to show reasonableness and that the relevant policies have been considered will be fundamental.

### **2.0 LOCAL POLICY CONTEXT**

One of the Council's fundamental policies is to provide Services of the best possible quality within the resources available to meet the requirements of Gwynedd residents. An important element of this is obtaining best value when disposing of property surplus to requirement in order to be able to divert capital receipts towards funding priorities identified in the Corporate Asset Strategy. Consequently, when any sale for less than market value is proposed, it must be shown that economic, social or environmental benefits accrue directly from the sale that could not be realised without disposing at a reduced price.

It is considered that disposals at less than market value will be rare exceptions.

### **3.0 STATE AID**

Any disposal for less than market value will have to conform with the European Commission's rules on state aid. In disposing of land for less than the best consideration, Authorities subsidise the owner, developer and / or occupier of the land. When this occurs, Authorities must ensure that the nature and sum of the subsidy conform with state aid rules. Failure to do so will mean that the aid is illegal.

### **4.0 OPERATIONAL PROTOCOL**

1. Any disposal for less than the best consideration will be referred for consideration by the Council's Cabinet.
2. The Senior Manager – Corporate Property's report to Cabinet should outline clearly what the hypothetical financial loss would be to the Council and what environmental, economic or social benefits would accrue to the Council from reducing the selling price.
3. The report to the Board must contain sufficient information and show the justification to enable Members to come to a conclusion whether the disposal will be a proper use of the Disposal Consent, considering the Council's trusteeship duties to ratepayers.

### **3. Afteruse of Schools Surplus to Requirements**

- Obviously, any scheme which considers the future of property sites could lead to the conclusion that sites will be surplus to the Council's requirements for service provision in future.
- In such cases, the process for considering the future of these sites is shown clearly in the Council's property disposal policies.
- These policies, to a very large extent, have been based on the statutory requirements which every Local Authority faces. Specifically, Section 123 of the Local Government Act 1972 states clearly that the Council must obtain the best consideration that can reasonably be obtained for the ratepayers' benefit. This means that the Council's policy to meet this requirement is to dispose of all properties surplus to requirements on the open market. This enables the Council to make every reasonable attempt to secure the best consideration and means that every potentially interested party will have the opportunity to submit offers in an open and transparent manner.
- But, securing the best consideration does not mean offering on the open market in all cases. In some cases, because of the nature or location of the property, it will appear that only by selling to one specific purchaser can the Council secure the best terms e.g. only one purchaser has access to the land, combining the Council's land with land of a nearby owner would lead to a substantial increase in its value etc.
- In such cases, the Council can dispose of land directly without offering it on the open market subject to receiving of a report from the Senior Manager – Corporate Property confirming that the terms of sale represent the best value to the Council and ratepayers.
- In other cases, the Council will wish to dispose of property in order to facilitate strategic objectives, e.g. providing affordable homes, and in such cases the Council can dispose directly without offering on the open market subject, again, to receiving a report from the Senior Manager – Corporate Property confirming that the terms of sale



represent the best value to the Council and ratepayers. Usually, such disposals will be to the Council's partners working towards the same strategic aims e.g. Housing Associations in cases of providing Affordable Homes.

- In addition to this, in special cases, when there is evidence to support such cases, it is possible for the Council to dispose of property at less than the best financial value. The General Disposal Consent (Wales) 2003 gives statutory consent to Local Authorities to dispose in this way if there is robust evidence proving that the disposal would lead to direct economic, social or environmental benefits which could not otherwise be realised without disposing for a sum which is less than market value.
  
- It is a matter for each individual Authority to consider whether the economic, social or environmental benefits outweighs the financial loss of disposing at less than market value. The Council's external auditors must be informed of all such cases.
  
- Consequently, the Council's policy is to consider such requests on the basis of a business plan to be provided by the proposer. Only by assessing the business plan can the Council consider:
  - whether the economic, social or environmental benefits outweigh the financial loss, that is, the difference between the open market value and the price offered in the particular case under consideration.
  
  - whether the applicant's plan is viable.
  
  - is it possible to realise the economic, social or environmental benefits without disposing at less than market value?

The above, therefore, confirms that it is possible for the Council to dispose of school sites surplus to requirements for less than the best terms, but only under specific circumstances and following receipt of a business plan justifying clearly the financial loss. A report will be submitted to the Council's Cabinet in every such case.

#### **4. LETTING PROPERTY FOR LESS THAN MARKET RENT**

- 1.1 Requests are made to the Council from time to time by organisations leasing property from the Council for reductions or rescindment of rent. These organisations can include registered charities, community / town councils and community organisations.
- 1.2 The work these organisations do is appreciated, they often operate under strict financial conditions and often apply for a reduction in the rent payable to the Council.

#### **2. PRESENT POLICY**

- 2.1 One of the Council's main objectives is to provide services of the highest quality within the resources available in accordance with the taxpayers' wishes. An essential part of this is ensuring the best possible income when letting Council assets so as to contribute towards Council budgets to make this provision.
- 2.2 There is a duty on officers of the Property Service to adhere to this policy to ensure that the Council receives the best possible profit for the asset.

#### **3. DEVIATING FROM THE POLICY**

- 3.1 When applications for reductions are received, it is suggested that the following policy be adopted:
  - (a) The Property Section agrees a rent corresponding to open market rent. It is the Service responsible for the Property that receives the rent.
  - (b) That the application for a reduction is forwarded to the Service associated with the activities of the user to consider the request i.e. the relevant Department can make up the difference in accordance with that Service's procedure for operating grants.

#### **4. CONCLUSION**

- 4.1 Accepting the above proposals will ensure that the Council receives a fair rent for the property in an open and responsible way whilst enabling organisations to operate their services with less of a financial commitment.
- 4.2 The policy will enable correct financial accounting as support for organisations will appear as expenditure rather than being hidden as a reduction in the income received from assets. This will show that the Council supports organisations as well as receiving fair rents from assets.
- 4.3 It can be arranged that organisations pay net sums to the Council, that is the difference between the rent payable and the subsidy received from the Authority.
- 4.4 It will be necessary to consider Departmental budgets if the policy is adopted to ensure that the effect on the budget as a whole is neutral.
- 4.5 All Council Departments were consulted when this policy was being considered originally. It was prepared jointly with the Internal Audit Service.

## **5. PROPERTY PROCUREMENT POLICY AND STRATEGY**

### **1.0 Property Asset Management Plan**

**1.1** Gwynedd Council's strategic foundations for managing all property used for operational purposes or for non-operational purposes are the Corporate Asset Strategy and the Property Asset Management Plan.

**1.2** The principal aims of the Property Asset Management Plan are:

- provide property of acceptable standard and fit for purpose in order to provide basic services.
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**1.4** It is necessary, therefore, that any request for a new property should have been identified in the Corporate Plans or that a clear and unambiguous business plan has have been shown since then.

### **2.0 Property Procurement Operational Process**

**2.1** This process is relevant to the procurement of every kind of property, including purchasing freehold or taking on a new lease.

**2.2** The Service wishing to procure property will forward initial instructions to the Corporate Property Unit which will verify the request against the Corporate Asset Management Plan.

**2.3** If the requirement for the property in question has been identified in the Asset Management Plan the Service will be required to present a strategic and operational justification for procuring the property and, if a reasonable justification cannot be provided, it will not be possible to proceed with the request.

**2.4** In instructing the Corporate Property Unit the Service will be required to provide a concise brief of their requirements (type of property, size, nature of the use, location, timetable etc).

**2.5** The Corporate Property Unit will consider, as a first step, whether a property already in Council ownership will meet the Service's requirements,

**2.6** If no fit for purpose property is available, or if property cannot be adapted, the Property Unit will examine all possible options available on the local market. The Property Service will consider which procurement method and which legal interest would represent the best value to the Council, based on the specific requirements of each individual case.

**2.7** The Service wishing to procure the property will be responsible for all the costs associated with purchasing / leasing, including any ancillary costs such as consultants fees, revenue costs, legal costs etc.

- 2.8** The Service should not open negotiations directly with property owners so as not to undermine the Council's ability to secure best value in all cases.
- 2.9** Following investigating the market, the Corporate Property Unit will present initial options to the Service and, following their confirmation / further instructions, the Unit will open negotiations with the owner with the intention of agreeing terms, subject to contract and to the Council's constitutional consent.
- 2.10** It will not be possible to proceed with any property procurement if terms cannot be agreed, which, in the opinion of the Senior Manager – Corporate Property, represent the best value to the Council. Delegated authority is available to procure any property by compulsory purchase if required and if there is a legal basis.
- 2.11** If acceptable terms can be agreed, the Council's Legal Unit will be instructed to complete the purchase once the constitutional consent has been received.

### **3.0 Constitutional / Statutory Matters**

- 3.1** The constitutional authority to procure any property generally rests with the Cabinet Minister with responsibility for Property matters following receipt of a decision notice from the Senior Manager – Corporate Property.
- 3.5** In every case, the Service will be required to ensure that adequate funds are available for every once and for all costs and for recurring costs associated with the procurement.