



MABLETHORPE & SUTTON TOWN COUNCIL

DISPOSAL OF LAND, PROPERTY AND ASSETS

Introduction

Mablethorpe & Sutton Town Council may deem it appropriate to loan, sell, gift, write-off or otherwise dispose of low value assets owned by the Town Council from time to time. This policy covers such disposal and refers to general surplus stock items purchased for retail, out of date stock, replaced equipment, broken or otherwise damaged general use assets and general assets that are surplus to the requirements of the Town Council.

This policy is inclusive of financial disposals such as the write-off of bad debt but does not cover depreciation or other asset value reductions as may be determined by normal accountancy practices.

For the purposes of this policy low value assets are deemed to be assets with an original purchase value, either singularly or collectively, of less than £2,000 or aged assets with a depreciated value of less than £2,000.

Policy Statement

The Town Council is not empowered to delegate to committees or others, decisions regarding the write-off of bad debt. Decisions regarding the write-off of bad debt shall be a matter for consideration and approval by Full Council only.

The Town Clerk may authorise the disposal of low value assets up to an aggregate value of the Clerk's financial authority limits as determined by the Financial Regulations adopted by the Town Council. Should the aggregate stock value exceed the Town Clerks financial authority then the disposal request shall be referred to either the Tourism and Amenities Committee or the Finance Committee for authorisation.

The Administration Committee may authorise the disposal of low value assets up to an aggregate value of the Committee's financial authority as determined by the Financial Regulations adopted by the Town Council.

When authorising the disposal of low value assets, due consideration shall be given to the means of disposal namely; sale by tender, gifting (e.g. to charitable organisations), loaning or scrapping.

Electrical items (regardless of working condition) **shall not** be offered for sale nor gifted to charitable organisations for onward sale.

Assets capable data storage (e.g. PC's) **must have** the data storage unit (e.g. hard drive or memory card) removed prior to disposal. Data storage units **must be** professionally destroyed and any contained data rendered inaccessible.

The disposal or loan of assets having any historical value **shall only be** authorised by the Town Council.

Definition of Surplus Asset for Disposal

Land and property owned by Mablethorpe & Sutton Town Council usually has a use or function either by the Council or within the community. Occasionally assets may not present an economic case for retention. Prior to asset disposal, due consideration should be given to other use to affect a level of control over existing or potential future developments that are otherwise open to normal market force.

The Town Council presumption is that land and property is not for sale unless there is a clear need or desire to do so.

The Administration Committee will review the Council's asset list (at least annually) and consider sufficiency, suitability, condition and cost or retention. Any site will only be determined as surplus if it meets all the following criteria:

- i. It makes no contribution to the delivery of the Council's services and is unlikely to be required for service delivery in the future.
- ii. It is no longer appropriate for service provision.
- iii. It has no potential for future strategic or regeneration/ redevelopment surplus (including potential affordable housing)
- iv. 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.
- v. The land or property is not adjacent to a larger area of land or property in the ownership of the Council.
- vi. The land or property does not have social or environmental benefits as amenity land or open/recreational space.

Legislation Relating to Asset Disposal

The Local Government Act 1972 (s.126) gives the Town Council the power to dispose of land and property. It states that a council may appropriate land for any purpose approved by the Secretary of State.

1. Options for Disposal of Land and Property

- 1.1 Disposal under the LGA 1972 deals with all types of disposal, freehold, leasehold and short tenancy agreements. Any leasehold term should be appropriate for each asset as determined by the Council on a case by case basis.
- 1.2 The disposal of the Council's land and property could therefore be progressed in several ways and does not necessarily have to result in a freehold sale.

The following options are available:

- a) Freehold disposal - the sale of the property with or without future covenants to restrict or protect future use. Permanent grant of rights over land (i.e. easement in fee simple).
- b) Leasehold disposal – leasehold interest can be agreed for any time 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.
- c) Non-permanent grant of rights over land – i.e. access licence, way leave etc.
- d) 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.

Determination of the Method of Disposal

- 2.1 Except where certain criteria apply, open market disposal will be the preferred method of disposal. Disposals by private treaty (the agreement for the sale of a property at a price negotiated directly between the vendor and purchaser or their agents), should not normally

be undertaken in the interests of openness and accountability, however it may be appropriate for small plots valued independently at under £20,000 where the plot forms part of an otherwise, privately-owned garden. To use a private treaty would require Full Council approval, listing the valid reasons.

2.2 The generally accepted methods of disposal are:

- a) Open Market disposal
- b) Joint Development

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

2.4 All issues relating to the land or property, including social, environmental and economic benefit and legal issues and agreements, will need to be considered when determining the method of disposal.

2.5 The Council would appoint a solicitor and external surveyors and valuers (where necessary) on the type and method of disposal.

In principle the Town Council will choose the method of disposal which provides the fairest and best consideration. This will be more than just financial consideration and may include social, environmental and/or economic considerations and will be the method which best secures the desired objectives and outcomes for the land and/or property.

3. Open Market Disposal

3.1 For freehold disposal and leasehold interests over 7 years the properties will be advertised, bids invited in the form of sealed bids by an agreed date or through open auction.

3.2 When appropriate independent agents will be appointed to manage the advertisement and the disposal of the land or property and report to the Council the value of the bids received and recommend which they consider to be the best consideration of both financial and non-financial benefits.

3.3 Short tenancies of less than seven years may be considered by the Administration Committee each time a lease ends or when a variation is required.

4. Partnerships

4.1 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 Developer or Registered Social Landlord (RSLs).

4.2 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.

4.3 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 redevelopment projects only.

4.4 This form of development may result in EU (or other post Brexit) procurement legislation becoming applicable. Any joint development proposal will require independent legal advice.

4.5 Any joint development proposals must be approved by Full Council only.

5. Obtaining Best Consideration and Disposal at an Undervalue Rate.

- 5.1 The Council should seek, for all disposals, to achieve the best financial consideration available for the type of property and the agreed terms.
- 5.2 However, where appropriate the Council can consider non-financial benefits as part of the consideration for a disposal.
- 5.3 Land should not be disposed of at an undervalue unless in accordance with the guidelines set out in the LGA 1972 (circular 06:03) General Disposal Consent (England) 2003. Otherwise consent from the Secretary of State would be required and may constitute State Aid.
- 5.4 Valuations for the land or property should be carried out by an independent valuer appointed by the Council and the valuation must be carried out in accordance with the LGA 1972 (circular 06:03) General Disposal Consent (England) 2003.

This legislation requires valuations of the restricted sale value (allowing for all the conditions which the Council has placed on the sale and including nonfinancial benefits) and an unrestricted sale value.

6. Financial Criteria for Disposals

- 6.1 An option appraisal should be carried out which assesses the capital and revenue implications of each option, the impact of the current economic conditions and the VAT implications.
- 6.2 Valuations should be obtained for all viable options, provided by an independent valuer.
- 6.3 Once sites are approved as being suitable for disposal and a programme for disposal has been agreed this should be included on a disposal plan which is then used to inform the medium-term financial plan. However, until exchange/completion of contracts has taken place, or the lease has been completed, there will always be a risk that the disposal will not take place in the time periods programmed.

7. Community Asset Transfer

- 7.1 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 organizations to develop those assets and deliver long-term social, economic and environmental benefits which may not otherwise be achieved.
- 7.2 The Council will consider any request for an asset transfer to a Community organisation where the organisation can provide an adequate business case and where the transfer would meet the Councils priorities and objectives.
- 7.3 The Council will seek best consideration for the transfer unless social, environmental or economic benefits are provided.
- 7.4 The Council may, where appropriate, agree covenants or overage clauses to deal with additional development.