

LAND DISPOSAL PROCEDURE RULES

1. Application

1.1 These Land Disposal Procedure Rules apply where there is a land transaction.

1.2 The terms used within these rules along with their meanings are listed below:-

- (a) "land transaction" means the acquisition, disposal of, or other dealing with land whether or not buildings, plant and equipment, fixtures and fittings, or other assets are included in that transaction. A transaction concerning only plant and equipment, fixtures and fittings, or other assets is not a land transaction.
- (b) "major disposal" means a land transaction which consists of either a disposal of the freehold where the consideration exceeds £250,000 or the grant of a lease or licence where the rent exceeds £50,000 per annum or where the premium exceeds £50,000.
- (c) "the property procedures" means the procedures adopted by the Executive Director of Regeneration and Neighbourhoods from time to time, in consultation with the Executive Director of Corporate Resources and the Borough Treasurer.
- (d) "best consideration" means the legal obligation upon the Council under section 123 Local Government Act 1972 to achieve a consideration which is the best that can reasonably be obtained. The Council's Rules of Procedure, codes and protocols, and Contract Procedure Rules shall continue to apply to major disposals unless otherwise stated in, or inconsistent with the Land Disposal Procedure Rules. In these circumstances the Land Disposal Procedure Rules shall prevail. The Contract Procedure Rules are:-

Rule 15 (Submission and Opening of Tenders);

Rule 16 (Electronic Tendering);

Rule 17 (Tender Evaluation and the use of Electronic Auctions)

Rule 19 (Evaluation Team)

Rule 20 (Bonds, Guarantees and Insurance)

Rule 22 (Debriefing)

Rule 25 (Contracts Terms and Conditions)

Rule 26 (Execution of Contracts)

Rule 27 (Records of Tenders and Contracts)

Rule 39 (Non Compliance and Ratification)

2. Approval of major disposals

2.1 The principle and method of each major disposal must be approved by the Executive Director of Regeneration and Neighbourhoods and by the Cabinet Member for Regeneration and Neighbourhoods. When determining such matters, the Director and Cabinet Member for Regeneration and Neighbourhoods shall consider a report which:-

- (a) Specifies the land to be disposed of;
- (b) confirms whether the land has been declared surplus to the Council's requirements;
- (c) advises upon the proposed method of disposal, and provides the reasons for selecting that method;
- (d) in matters where the Council must achieve best consideration, confirms that the proposed method of disposal is likely to achieve this and, where other than open competition is recommended, describes how this duty will be satisfied/evidenced;
- (e) in matters where it is proposed that the disposal should be for less than best consideration, gives reasons for and against seeking best consideration and, following consultation with the Executive Director of Corporate Resources, specifies the relevant legal powers of the Council to accept less than best consideration.

2.2 The principal terms of major disposals must be approved by the Executive Director of Regeneration and Neighbourhoods in consultation with the Cabinet Member for Regeneration and Neighbourhoods. They shall consider a report to confirm either that the consideration agreed represents best consideration, or following consultation with the Executive Director of Corporate Resources, specifies the reasons for accepting less than best consideration and the relevant legal powers of the Council to do so.

2.3 In major disposals where the approved method of disposal is the inviting of formal tenders or informal offers, the disposal must be advertised in at least one local newspaper circulating in the district and on the Council's website. For major disposals where the value of the land is estimated by the Executive Director of Regeneration and Neighbourhoods to be greater than £500,000 It must also be advertised in at least one specialist journal or publication circulating among people who are likely to be interested in acquiring that land, as determined by the Executive Director of Regeneration and Neighbourhoods.

3. Alterations to/errors in or late formal tenders and informal offers

- 3.1 Where there are alterations/errors, or where a tender or offer is received late, or otherwise fails to comply with the procedural requirements of these Land Disposal Procedure Rules and the Executive Director of Regeneration and Neighbourhoods, in consultation with the Executive Director of Corporate Resources and the Borough Treasurer, believes it is in the Council's best interests to recommend acceptance of such alterations/errors, or to consider a tender or offer which is received late or otherwise fails to comply with the procedural requirements of these Land Disposal Procedure Rules, and where in the opinion of the Executive Director of Regeneration and Neighbourhoods, in consultation with the Executive Director of Corporate Resources and the Borough Treasurer, it is possible that other tenders/offers will otherwise be prejudiced, all tenderers/offers shall be given the opportunity to resubmit their tenders/offers within a timescale specified by the Executive Director of Regeneration and Neighbourhoods.
- 3.2 Where in accordance with Rule 3.1 above the decision is made to ask tenderers/offers to resubmit their tenders/offers, the Executive Director of Regeneration and Neighbourhoods shall explain why the decision was made, supplying additional information to assist tenderers/offers with their resubmission.

4. Approval of land transactions other than major disposals

- 4.1 The principal terms of land transactions other than major disposals (except where the approved method of disposal is by formal tender or auction) must be approved by the Executive Director of Regeneration and Neighbourhoods, in consultation with the Cabinet Member for Regeneration and Neighbourhoods. When determining such matters, the Executive Director of Regeneration and Neighbourhoods and the Cabinet Member for Regeneration and Neighbourhoods shall consider a report confirming either that the consideration agreed represents best consideration, or following consultation with the Executive Director of Corporate Resources, specify the reasons for accepting less than best consideration and the relevant legal powers of the Council to do so.

5. Application of the property procedures

- 5.1 All land transactions must be conducted in accordance with the property procedures.

6. Contractual formalities

- 6.1 All contracts and other documentation for land transactions shall be in writing, signed or sealed, as appropriate, as determined by the Executive Director of Corporate Resources.