



Epping Forest District Council

Draft Policy for The Disposal of HRA Assets

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1. Background/Scope

- 1.1. EFDC owns approximately 12,000 assets including properties and garages. In addition to these the Council owns other assets such as parcels of land, pathways, un-adopted roads, alleyways and grassed areas on residential estates.
- 1.2. As landowners we are often contacted by individuals and groups who wish to purchase the land from us. As a public body we manage our land assets proactively to ensure that they provide best value in terms of a future and current asset.
- 1.3. This policy sets out our approach to the disposal of our land and property assets, giving regard to Section 123 of the Local Government Act 1972, which states that a local authority has the power to dispose of land. The main caveat to this power is that the council must not do so for “*a consideration less than the best that can be reasonably obtained*”. Furthermore, the policy explains when we might consider land suitable for disposal and when it does not add value to our business.
- 1.4. For the purposes of this Policy, “a disposal” means any freehold disposal, by sale or exchange, of Council owned land/property (including buildings) and any disposal by the granting of a lease or licence for a period greater than 7 years. Leases of 7 years or less or assignment of a term which has not more than 7 years to run are not covered by this Policy, as they are exempt from the statutory requirement to obtain best consideration. Furthermore, this policy specifically relates to single dwellings and parcels of land below 80 square meters. Other disposals such as those resulting from ‘under-used’ land and ‘surplus’ land are dealt with under the Strategic Asset Management Strategy.
- 1.5. This policy has been developed in line with governance regulations and delegation procedures together with requirements set out in legislation.

2. Policy Statement

- 2.1. EFDC are committed to providing excellent services to tenants, leaseholders and the local community. We operate in a fair and transparent way.
- 2.2. We seek to make best use of our assets and housing stock; however, we have no legal obligation to sell land unless directed to under statutory process such as a Compulsory Purchase Order. All decisions to dispose of land will be at the discretion of the Authority and within the framework of this policy.

Parcels of land below 80 Square metres

- 2.3. EFDC receive applications for the purchase of land from different sources, these could be groups of tenants, individual or local businesses. The Council will consider applications to purchase parcels of land from adjacent owners, however, the Council also reserves the right to consider applications from other parties where there are no management or other issues that would cause inconvenience to the Council, if the land was to be sold and the disposal was economically favourable. Each application will be given due consideration before a decision is made. EFDC will decline an application to purchase land if one or more of the following criteria applies:

- The sale of the land would prevent future regeneration or development opportunities for the Council;
 - The land has marriage value which has not yet been investigated;
 - The land provides access for other properties either Council or privately owned;
 - Sale of the land would have a negative impact on the neighbourhood;
 - Best consideration has not been achieved;
 - The land forms part of the integral estate design;
 - Sale of the land would incur additional costs for the Council (for example, the re-siting of lamp posts or telephone cables) unless the applicant is willing to finance the additional costs (payable in advance);
 - The amenity land in the locality would be reduced; The sale would detract from the visual appearance in the locality; and/or
 - There are management or other issues that would cause inconvenience to the Council if the land was to be sold.
- 2.4. The value of land will be fully assessed, and valuation be obtained from a qualified RICS valuer, this could be undertaken by either an internal or external professional. Land may be marketed or auctioned to obtain best consideration. Any valuation will be based on commercial use and not the proposed use.
- 2.5. We will endeavour to maximise revenue from land disposal and sell land for best consideration, taking into account the lands full development potential, however there may be situations where a value for money approach needs to be taken, thus selling at less than market value for nil consideration. This situation may occur when:
- Disposal would reduce management costs;
 - We own no homes in the area immediately surrounding the land yet incur the cost of maintenance; and/or
 - We would be adding value to the area or community.

In the event that land is sold for garden use, property extensions and parking only, an overage clause will be applied which will enable EFDC to share any future value arising from change of use.

Single Dwellings

- 2.6. There may be situation where it is considered a good use of Council assets to proactively dispose of assets, this policy applies to the sale single dwellings only.

The criteria for the disposal of a single dwelling is:

- Where there is significant structural damage which makes the property not economically viable;
 - Where the cost of increasing the SAP rating would result in a cost which would be far beyond any income, we would receive; and
 - The market value is substantial and liquidating the asset will help us to provide more homes and improve communities.
- 2.7. In cases where a property may not be economically viable, a financial appraisal will be carried out over the period of the business plan. The aim of this will be to

understand the Net Present Value of the property and the Internal Rate of Return. This will be carried out by either an internal or external professional who has had the necessary training to do so.

Allotments

2.8. Where land has been purchased or appropriated by the Council for use as statutory allotments, the Council cannot, without the consent of the Secretary of State, sell, appropriate, use or dispose of the land for any purpose other than use for allotments (Section 8 Allotments Act 1925). The Council will consider the disposal of an allotment against the following criteria, having regard to the Secretary of State's guidance on allotment disposal:

- The allotment in question is not necessary and is surplus to requirement;
- The number of people on the waiting list has been effectively considered;
- The Council has actively promoted and publicised the availability of other sites and has consulted the National Allotment Society; and
- The implications of disposal for other relevant policies, in particular, the local plan and neighbourhood plan policies have been taken into account.

Garages

2.10. On request, isolated Council-owned garages, which are located immediately adjacent to an existing residential property may be sold to the owner of the adjacent property (regardless of its orientation to the property), provided they are the garage tenant, or the garage is vacant and the owner is the next eligible garages applicant;

2.11. That any sale of an isolated garage be subject to a restrictive covenant being included in the sale of agreement preventing any change of use;

2.12. That the full open market value be paid for any garage sale, and that this be non-negotiable;

2.13. Garages will not be sold if they form part of any garage block.

Un-adopted roads, alleyways and pathways.

2.14. The Council owns several unadopted roads, alleyways and pathways. In some areas, we do not own any homes in the immediate surrounding area yet incur the cost of maintenance. Where it is in the Council's interest, we will seek to dispose of these unadopted roads, alleyways and pathways.

2.15. We will endeavour to maximise revenue from their disposal and sell the land for best consideration, however there may be situations where a value for money approach needs to be taken, thus selling at less than market value for nil consideration. This situation may occur when:

- Disposal would reduce management costs;
- We own no homes in the area immediately surrounding the land yet incur the cost of maintenance; and/or
- We would be adding value to the area or community.

2.16. The Council will retain un-adopted roads, alleyways and pathways where:

- a. The disposal of the land would prevent future regeneration or development opportunities for the Council;
 - b. In cases where agreement is not reached by all parties enjoying rights of access over the land to be transferred;
 - c. Disposal of the land would have a negative impact of the neighbourhood; and/or
 - d. There are management or other issues that would cause inconvenience to the Council if the land was to be sold.
- 2.17. The sale or transfer of unadopted roadways, alleyways and pathways, will be subject to a restrictive covenant being included in the transfer agreement preventing any change of use and requiring that the owner be responsible for future maintenance of the land.

3. Statutory Framework

- 3.1. The following legislation and guidance provide the statutory framework for the appropriation of land and overriding/extinguishment of easements and other rights by principal Councils and sets out the duties of the Council in providing compensation where rights are extinguished.
- 3.2. In general, the Council is required to achieve the 'best consideration reasonably obtainable' when it is disposing of land. Section 123 imposes a duty on the Council to achieve a particular outcome (namely the best price reasonably obtainable): it is not a duty to conduct a process (e.g. to have regard to factors). If the disposal is under the 1972 Act, there is neither express power to include covenants on a disposal, nor a prohibition.
- 3.3. If the Council seeks to dispose of land or buildings at less than the market value, then it must obtain the consent of the Secretary of State for Communities and Local Government. However, the Secretary of State has issued several 'general consents' i.e. a set of conditions which, if they apply to a transfer, means that the Council does not need to obtain specific permission to transfer at an 'undervalue'. However, the undervalue itself still needs to comply with 'normal and prudent commercial practices, including obtaining the view of a professionally qualified person. The most important of these consents is the General Disposal Consent which permits the Council to dispose of land at less than its market, without the need to seek Appropriation of Land by Principal Councils - Section 122 of the Local Government Act 1972.

4. Reviewing the Policy

- 4.1. The District Council will monitor, review and update the Policy annually.

5. Document control log

Version no.	Date	Details of changes included in update	Author
1		Publication	