

# Thame Town Council

## Land Acquisition and Disposal Policy

### 1. Background

- 1.1 The acquisition and disposal of land by Local Authorities is controlled by statute and was the subject of reports by the Audit Commission (1980) and the Commission for Local Administration (1995). These reports highlighted the various pressures that can influence Councils, their Councillors and employees, in dealing with land, and set out guidelines to encourage best practice.
- 1.2 The guidelines place emphasis on adopting procedures that are transparent and consistent, and therefore fair and proper.
- 1.3 Land is a valuable finite resource which is a corporately owned asset. Land must be managed and wisely utilised to achieve the Council's many wide and varied corporate aims and objectives.
- 1.4 This policy document should be read in conjunction with the Council's Financial Regulations.

### 2. Objectives

- 2.1 To secure a transparent and consistent approach to the acquisition and disposal of Council owned land.
- 2.2 To obviate any accusations of unfairness and impropriety.

### 3. Condition for Disposal of Land

- 3.1 The Council shall continuously review the sufficiency, suitability, condition and cost of retaining land owned by the Council.
- 3.2 The Council may dispose of land it owns following a review which shall be deemed surplus land if the retention of the land would not meet the Council's aims and objectives.
- 3.3 The Council may appoint a valuer to provide a valuation of the costs of which shall be borne by the Applicant whether or not the disposal proceeds to completion.
- 3.4 Where the Council disposes of its land it will normally seek to achieve the best price.
- 3.5 Generally the Council does not dispose of public open space unless to do so would result in a public benefit which meets the Council's aims and objectives.
- 3.6 A decision to dispose of land will be made by members following a report by the Town Clerk pursuant to S.127 (1) of the Local Government Act 1972.
- 3.7 Land disposed of by the Council shall be disposed of either by Private Treaty, Informal or Formal Tender depending upon the value of the land and any development potential.
- 3.8 Land disposed of by the Council and deemed surplus land shall not be disposed of at an undervalue unless in accordance with guidelines set out in Circular 06/03 Local Government Act

1972: General Disposal Consent (England) 2003 and with this Policy otherwise consent must be sought from the Secretary of State to agree to an undervalue disposal pursuant to S.127 (2) of the 1972 Act.

- 3.9 Requests received from members of the public to the Council to dispose of its land for the benefit of the community shall in the first instance be considered by the Town Clerk.
- 3.10 Land disposed of to a 'special purchaser' shall be at the best price the Council can achieve.
- 3.11 The Council shall as part of its decision making process consider whether the disposal will cause or have an impact upon a minority group or individuals who currently benefit from the land that cannot be accommodated elsewhere.
- 3.12 The Council has an obligation to fulfil its fiduciary duty in a way which is accountable to local people and in doing this needs to ensure that if it does dispose of land at an undervalue the disposal secures the wellbeing of the Council's aims and objectives.
- 3.13 Any request to purchase land from the Council must include details of the proposed use of the land together with any other information including a map of the area considered appropriate to enable a fully informed decision to be made by the Council. The request may be rejected if insufficient information has been given and the applicant may be asked to resubmit their application with the relevant information.
- 3.14 If the land has development potential or community amenity value the request may be declined and the applicant will be informed in writing.
- 3.15 Land having development potential may still be disposed of but the development potential must be reflected in the sale price or sale conditions.
- 3.16 The applicant must submit a formal planning application request to the District Council for a proposed change of use from public amenity land to private garden. This permission must be granted by the planning authority in the first instance before the formal acquisition process commences.
- 3.17 Any request to purchase land designated as public open space will be subject to legal requirements that the intention to dispose of the land be advertised on the Council's noticeboard and website, and any objections are taken into consideration.
- 3.18 Any request to purchase public open space will be subject to payment by the applicant of all costs incurred including the public notice, the Land Valuation Report, Officer time, legal expenses and any other associated costs whether or not the transaction proceeds to completion.
- 3.19 The Council shall impose such conditions, covenants or restrictions upon the disposal of public open space land as it considers necessary and appropriate.
- 3.20 Land disposed of by the Council where the value of the land does not exceed £10,000 or is at a Special Purchase and is intended to be used by the buyer either as an extension to their garden or for the erection of a separate building or an extension associated with their existing property shall be disposed of by Private Treaty.
- 3.21 Land disposed of by the Council where the value of the land does not exceed £20,000 and the provisions as stated above do not apply, shall be disposed of by informal tender.

- 3.22 Land disposed of by the Council where the value of the land exceeds £20,001 shall be disposed of by formal tender.
- 3.23 In inviting bids for the purchase of Council land, information as to the criteria the Council intends to use in evaluating the bids shall be provided to the bidders within the tender documents but in most cases will be the best price the Council can achieve.
- 3.24 Where land is disposed of for less than the best price the Council can achieve or where the disposal is subsidised by the Council, Councillors must consider in consultation with the Town Clerk whether such disposal amounts to State Aid.
- 3.25 Where the land disposal forms part of a mixed transaction involving the procurement of public works, supply or services, the Council must consider in consultation with the Town Clerk whether the disposal amounts to procurement rather than a simple land transaction in which case Contract Procedure Rules may apply.
- 3.26 The Town Clerk shall negotiate the most advantageous terms and conditions for the Council with the applicant and is authorised to enter into a contract with the applicant on behalf of the Council subject to compliance with the provisions as stated above.
- 3.27 The Council may consider, on a case by case basis, to set aside funds raised from land disposal to improve biodiversity.

#### **4. Acquisition of Land**

- 4.1 The Council may be approached by a member of the public or organisation to acquire land in their ownership or the Council may become aware of land that is either on the market for sale or approach a landowner to acquire the land to support its aims and objectives.
- 4.2 Before purchasing the land the Council shall undertake a costing exercise to fully understand the implications of the acquisition upon the Council and its resources. Consideration must also be given in regard to implications on VAT.
- 4.3 The Council shall identify the purpose of the acquisition and future responsibility within the Council for the land.
- 4.4 In exercising its powers of acquisition the Council shall purchase land at the lowest price it can achieve and only acquire land that meets its aims and objectives.
- 4.5 The Town Clerk shall carry out a financial appraisal as to whether it would be financially viable for the Council to acquire the land. The details of such a financial appraisal shall remain confidential to the Council.
- 4.6 Members shall determine whether to acquire the land after receiving a fully informed report from the Town Clerk which sets out a description of the land, a reason for the acquisition, how its acquisition supports service delivery and cost projections, what the other options are open to the Council other than acquisition of the land to support service delivery, equality and sustainability issues and finally a recommendation to members whether the Council should acquire the land.
- 4.7 Following determination, if the land is to be acquired the matter is passed to the Council's solicitor for processing who shall endeavour to process the application and complete the disposal within 12 weeks from receipt of all necessary information.