Part 4H: Code For The Disposal Of Land

1 Categories Of Land To Which This Code Relates

1.1 This Code relates to any disposal by the Council by sale, exchange or lease, of any freehold interest or leasehold interest for a term which is longer than 30 years.

1.2 Excluded from this Code are:

- any area of land only (ie land with no buildings on it) which does not exceed 100 square metres;
- Right to Buy dwellings sold under the Housing Act 1985;
- Properties in Shared Equity Schemes.

1.3 The requirements of this Code may, if requested by the Head of Property Services, be waived or amended if the Executive Councillor is satisfied that there is compelling justification in any particular case for such waiver or amendment.

2 Authorising Disposals

2.1 Executive Councillor for Customer Services and Resources

The Executive Councillor for Customer Services and Resources (‘the Executive Councillor’) may approve the freehold or leasehold disposal, and the terms of any such disposal, of all land and buildings (‘land’) within the Council’s property portfolio covered by this Code subject to:

- the provisions of Para 3 below;
- the Executive Procedure Rules in Part 4 of this Constitution, including possible selection for advance scrutiny by the Customer Services and Resources Scrutiny Committee and, if the disposal amounts to a “key decision” as defined in Article 12 of Part 2 of this Constitution, the requirements applicable to key decisions.

3 Preconditions To Disposal

3.1 No land to which this Code applies can be disposed of unless:

1. where a freehold disposal is proposed, the Executive Councillor is satisfied, having considered written advice from the Head of Property Services, that the land is no longer required for Council purposes;
2. the Executive Councillor has been advised by the Head of Property Services of the estimated market value of the land; and

3. the procedures set out in Para 4 below have been complied with.

4 Procedure For Securing Offers

4.1 Competitive offers for the land shall be invited in accordance with the procedure set out below unless:

- the Executive Councillor is satisfied, after considering written advice (including advice about estimated market value and interest) from the Head of Property Services and the Head of Legal Practice and the Head of Internal Audit, that the Council would not secure the best price reasonably obtainable for the land by inviting competitive offers; and

- the Executive Councillor has determined the procedure by which the purchaser of the land shall be selected following consideration of written advice from the Head of Property Services and the Head of Legal Practice and the Head of Internal Audit.

4.2 The availability of land for disposal by competitive offer shall be published in at least one local newspaper circulating in the area.

4.3 The minimum period for the submission of competitive offers in response to an advertisement shall be 21 days (excluding public holidays).

4.4 When competitive offers are invited the following shall apply:

(a) The documentation shall include:

- a standard form of offer;
- a statement that the Council reserves the right not to accept the highest or any offer and to negotiate with any or all of the offerees or any other person after consideration of the offers submitted;
- a statement that the Council will not be bound to sell the land until formal contracts have been exchanged;
- a statement of the closing date and time fixed for receipt of offers;
- a statement that if a higher offer is received after the date fixed for the receipt of tenders but before exchange of contracts the Council may be obliged to consider it.
(b) Every advertisement, notice or letter inviting the submission of offers shall state that no offer shall be considered unless it is contained in a plain sealed envelope addressed to the Director of Customer & Democratic Services bearing the words “Offer for the purchase/lease of……” followed by a brief description of the land to which it relates and bears no mark which might identify the offeree.

5 Procedure For Receipt And Acceptance Of Offers

5.1 All envelopes received shall be recorded in a central register maintained by the Director of Customer & Democratic Services and be kept secure and shall not be opened until the appropriate time.

5.2 The original opening record for offers shall be kept by the Director of Customer & Democratic Services.

5.3 The highest offer shall be accepted, unless:

1. the Executive Councillor is satisfied, after considering written advice of the Head of Property Services that, for sound estate management reasons, the proposed terms represent the best consideration reasonably obtainable by the Council; or

2. the Executive Councillor considers that there are good reasons for accepting an offer other than the highest and has written advice from the Head of Legal Practice that a disposal for less than the highest offer would be lawful.

5.4 If it has been determined in accordance with Para 4.1 above that competitive offers shall not be invited, the best offers of all interested persons shall be reported to the Executive Councillor. If in the course of negotiations the Head of Property Services decides to invite competitive offers the procedure outlined above shall be complied with.

5.5 There shall be at least two officers or persons representing the Council present at any meetings where negotiations are to take place and a written record of any such meetings shall be kept.