

# **Disposal of land within housing estates policy**

Harlow Council – March 2021

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## **1. Policy statement**

- 1.1 This policy is aimed at providing guidance to Council members, officers and the public in relation to requests by individuals to purchase small areas of Harlow District Council's (the "Council") owned land adjoining their property. This policy sets out the scope, the criteria that will be applied in assessing applications, the process involved and the charging framework.
- 1.2 Government policy encourages the disposal of surplus or under-used land assets by local authorities.
- 1.3 Effective asset management of the land and property is essential for the Council to meet its corporate priorities in a sustainable way. The Asset Management Plan sets out the Council's approach to the management of land and property assets.
- 1.4 Each disposal is considered on its own merits and nothing in this policy binds the Council to dispose of land.
- 1.5 There will be occasions when the Lead Officer will need to depart from the procedures set out in this policy depending upon the specific facts of any particular disposal. After consultation with relevant stakeholders the Council may, in those circumstances, utilise alternative procedures but only when necessary and always subject to the necessary authority of a Head of Service or any senior Council officer to whom the matter may be delegated and in compliance with statutory provisions.
- 1.6 This policy should be considered in conjunction with the Council's constitution and scheme of delegations, and the Council's local development plan.

## **2. Policy scope**

- 2.1 The following disposal types are within the scope of this policy:
  - Disposal of land that adjoins the dwelling/garden of the applicant's residential property only. The applicant/s must be freehold or leasehold owners of the adjoining property.
  - Sale of a freehold interest, an assignment, or grant of a lease for more than seven years of land that adjoins the dwelling/garden of the applicant's property only.

- Grant of an easement or licence for the purposes of a pedestrian or vehicular access for a term more than seven years to provide access to the applicant's freehold/leasehold property.

2.2 The following disposal types will be outside the scope of this policy:

- Leases of less than 7 years, or an assignment of a lease term with less than 7 years to run, which are exempt from the statutory requirement to obtain best consideration.
- Leases where the tenant has a statutory right of renewal.
- Land being designated public open space.
- Where the land could be subject to an application to purchase by alternative adjacent property owner/s.

### **3. Meaning of best consideration**

3.1 In the context of this policy, best consideration means the best price achievable for the proposed use of the land.

3.2 As the Council holds land for the benefit of the local community, it will only be able to demonstrate best price by obtaining an appropriate valuation of the land obtained from a valuer who is a registered valuer of the Royal Institution of Chartered Surveyors (RICS). Unless, the Council has a sufficient body of comparable evidence of recent and relevant transactions, an independent valuation will be necessary to this end.

3.3 The Council will dispose of the land with relevant covenants and betterment provisions to ensure the land is used for the purpose for which it was valued. Subsequently, any future change of use will be subject to the approval of the Council (such approval to be at the absolute discretion of the Council) and receipt of additional payment where appropriate.

3.4 Where pedestrian or vehicular licence is granted the Council reserves lift and shift provisions.

### **4. Land disposal criteria**

4.1 Certain rights and use, environmental or economic conditions may preclude the sale of land to an applicant. Upon careful consideration, an application may be refused using the following criteria if:

Rights and use:

4.1.1 The land is subject to private or public rights of way/use over it.

- 4.1.2 The land is subject to restrictive covenants restricting the proposed use of the land.
- 4.1.3 The sale of the land would restrict the Council's ability to carry out future improvement works or development to Council's retained land.
- 4.1.4 The land provides for a line of sight for vehicles, footpaths and/or other rights of way.
- 4.1.5 Permanent buildings/structures are proposed to be built on the land (unless the applicant obtains relevant utility searches confirming no utilities exist within the land in question).
- 4.1.6 Parking is proposed and:
  - 4.1.6.1 Vehicular crossing is not approved by the Highway Authority.
  - 4.1.6.2 The proposed parking space does not meet the Council's criteria for open front parking policy.
  - 4.1.6.3 The land is currently used as a communal parking space.

Environmental:

- 4.1.7 An application would lead to loss of important or balanced landscape feature which is part of the structural or primary housing landscape.
- 4.1.8 It is proposed to remove substantial trees/hedges. Trees/hedges should be protected in so far that it is reasonable practicable to do so.
- 4.1.9 Any proposed boundary fence, wall or building wall is too close to existing tree(s) on Council land and there is risk the tree(s) will potentially cause structural damage to the proposed fence, wall or structure.
- 4.1.10 Planning permission for the proposed use is not granted.
- 4.1.11 It is proposed to erect fencing/enclose land over a ditch line.
- 4.1.12 There is a minimal provision of landscaping within the surrounding area.
- 4.1.13 The landscaping feature is serving a primary vehicle route or estate boundary.
- 4.1.14 The sale of land at the particular location would set a precedent which would prejudice the Council from refusing requests to dispose of land in similar locations, as this would inevitably lead to the loss of the landscape provision for that area and would cause a major change in the landscape environment.
- 4.1.15 Landscape buffer zone such as landscape buffer between two housing estates is proposed to be removed. These zones must be preserved to protect the integrity of the area. Land sales that would lead to the reduction rather than removal of a landscape buffer zone must be approved by a Head of Service if other criteria are met.

- 4.1.16 It is proposed to erect fencing over 1 metre in height beyond the existing front building line of neighbouring properties.
- 4.1.17 An area contains a Scheduled Ancient Monument / Tree Preservation Order or encompasses Protected Hedgerows.

Economical:

- 4.1.18 The purchaser has outstanding debts with the Council.
  - 4.1.19 The 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).
  - 4.1.20 The sale of the land may prejudice future development or regeneration of the land (or adjacent land that would be affected by the sale) by the Council.
  - 4.1.21 There are land management or other issues that would cause inconvenience to the Council if the land was to be sold.
- 4.2 In certain instances, it may not be appropriate to approve an application even though the above criteria may have been satisfied, as there may be other important factors which must be taken into consideration before a decision is reached. A decision by Head of Service will be made in those circumstances.
- 4.3 It should also be noted that the sale of land should not be approved solely because it is perceived that it would be cost effective for the Council to cease maintaining an area. The Council has a duty of care to the community to ensure that the planned environment is protected and maintained. Harlow's landscaping exists for the benefit of all residents of the town and the Council is equipped to ensure the continued provision and maintenance of the town's landscaped areas.

## 5. Charging framework

- 5.1 The applicant will be liable to pay the following periodically reviewed fees:
- Land application fee: £240 (£200 + VAT)
  - Planning fees: £462
  - RICS valuer fees £360 (£300+VAT)
  - Council's Legal fees £350
- 5.2 It should be noted that the Council reserves the right to charge applicants further land application fees for the Lead Officer's time if matters become protracted during the application process. For instance, once the terms of the sale are approved by the applicant and the applicant requests amendment to

the original proposal. The applicant will be notified of these additional fees on an ongoing basis until the matter has concluded.

- 5.3 The fees vary depending on the complexity of the application. The Council's Legal team reserves the right to charge further reasonable fees if the matter becomes protracted. The applicant will be notified of these additional fees on an ongoing basis until the matter has concluded.
- 5.4 Fees shown are applicable for financial year 2020/2021. The current charges can be found on Council's website [www.harlow.gov.uk](http://www.harlow.gov.uk)

# Land Application Process



## Initial Assessment

Once the Land application form is submitted, the Council will assess whether the land in question is owned by the Council and whether the application is within the scope of the land sale policy.

- No fee is payable at this stage
- The process usually takes a week



## Planning application

If the land sale criteria are met you will receive a provisional offer. You will be asked to submit a Full Planning Application for the change of the use from public to private.

- Planning application fees are paid at this stage (£462)
- The process usually takes 8 weeks



## Land application

The Council will process your application and decide whether your proposal meets the criteria for sale.

- The land application fee is payable at this stage (£240)
- The process usually takes 4 weeks unless a Cabinet decision is required



## Land valuation

Once you have agreed to the provisional offer and a received a planning approval we will instruct RICS qualified valuer to ascertain value of the land.

- Valuation fee is payable at this stage (£360)
- The process usually takes 3 weeks.



## Valuation offer

Once we receive the valuation, we will send you the valuation offer for your approval

- We will ask for your solicitor's details at this stage



## Legal Exchange and Completion

Once you have accepted the valuation we will instruct Harlow Council Legal Services to draft the legal documents and send them to your solicitors for approval.

Following approval from your solicitors, the signed transfer is registered at HM Land Registry and the process ends

- Legal fee is payable at this stage (£350)
- The process usually takes 4-8 weeks



Fees displayed correct as of March 2021