



LONDON BOROUGH OF HOUNSLOW
POLICY FOR THE DISPOSAL OF HRA LAND TO MEMBERS
OF THE PUBLIC
2009

1. Introduction:

1.1 Community Services frequently receives requests from members of the public to purchase areas of Housing Revenue Account (HRA) land, which have historically ranged from requests to acquire small areas for the extension of gardens, to larger areas for potential development. The assessment of these requests requires the involvement, consultation and co-ordination of several departments within the Council, Hounslow Homes, and Council Members.

1.2 This Policy aims to:

- a) Provide an explanation of the statutory and administrative context within which applications will be considered.
- b) Define the roles of Council departments in the assessment and consultation process, and their areas of responsibility.
- c) Explain restrictions on the sale of HRA assets.
- d) Provide a distinction between requests for small areas of land that may be considered for sale by private treaty, and larger areas with development potential that should be sold on the open market, and link to the relevant procedure for each type of request.
- e) Clearly set out the appropriate level of authority for authorisation that must be obtained before the disposal of assets may proceed.
- f) Provide guidance for cases where the estimated value of the land is close to the upper limit for any level of authority.
- g) Set out the fees chargeable for the processing of applications, and any additional relevant charges.
- h) Set out the Council's procedures for obtaining valuations of assets.
- i) Set out how people who are not satisfied that their application has been properly processed in accordance with this policy and the related procedures may make a complaint

1.3 This Policy governs the disposal of smaller HRA assets to members of the public only. Other disposals, such as asset transfers between Council Departments or transfers to parties with whom the Council has entered into a Development Agreement, are not covered under this Policy.

2. Statutory and administrative context:

2.1 This policy replaces our previous policies.

2.2 Under Section 123 of the Local Government Act 1972, the Council has an obligation to obtain the best value possible in the case that it agrees to dispose of an asset.

2.3 **The Council has no statutory obligation to dispose of assets**, other than under the Right to Buy* and will do so at its own discretion and only when it considers that such disposal will be in the best interests of the London Borough of Hounslow.

2.4 The Council may refuse an application for purchase at its discretion. Applicants will be provided with an explanation of the reasons for refusal, except in cases where such information is considered to be commercially sensitive or the provision of information would breach confidentiality.

2.5 The Housing Enabling Team within Housing Strategy and Services will hold and maintain a database of requests to purchase HRA assets, and all requests should be logged and monitored in this database. Information held in the database will be handled in compliance with the Data Protection Act.

3 Definition of departmental roles and responsibilities:

3.1 Housing Development and Partnership (HDP):

The Housing Developments and Partnership Team (within Housing Strategy and Services) is responsible for all HRA assets, and the sale of assets may therefore not proceed without the recommendation of this team. HDP will take responsibility for leading and co-ordinating the assessment of applications, and will deliver the following:

- a) Log and monitor applications through the HRA Asset Enquiry database, and ensure that information contained in the database is treated in compliance with the Data Protection Act.
- b) Co-ordinate consultation with other departments and be responsible for collating feedback.
- c) Request valuations of assets from CP as appropriate.
- d) Prepare reports and recommendations, to be submitted to the relevant level of authority (as defined under Section 7 of this Policy) for final decisions on applications.
- e) Liaise with Corporate Property to agree the terms and conditions of any disposals.

* The Right to Buy was introduced under the Housing Act 1980. The Right to Buy gives eligible secure tenants of the Council the right to purchase their homes from the Council.

- f) Communicate with the applicant in a clear and transparent manner and in compliance with the time frames agreed under the *Procedures for the Disposal of HRA Assets to Members of the Public (A&B)*.

This process will be led by a Housing Development and Partnerships Officer, reporting to the Housing Development and Partnerships Manager, Head of Housing Client and Partnerships, and Assistant Director (Housing Strategy and Services).

3.2 Corporate Property (CP):

Corporate Property (CP) is responsible for managing the Council's property assets. CP will be responsible for:

- a) Liaison with HDP when applications are received to ensure that all applications are properly logged and monitored by HDP, as described in the attached Procedures.
- b) Providing an indication of the ownership of assets when requested (via Legal Services where appropriate), within the agreed time frames under the attached Procedures.
- c) Providing valuations of assets when requested by HDP, within the time frames specified in the Procedures (except in exceptional circumstances when an extension of the time frame may be necessary).
- d) Instructing Legal Services to carry out Title searches within the time frames specified in the Procedures.
- e) Instructing Legal Services on the terms of any agreed disposal, in consultation with HDP and within the time frames specified in the Procedures.
- f) Providing further advice and assistance as appropriate.

3.3 Hounslow Homes:

Hounslow Homes is the Council's Arms Length Management Organisation (ALMO), and is responsible for the management of HRA assets. Recently, Hounslow Homes has also assumed a development role in the provision of new affordable housing. Consultation regarding the disposal of HRA assets will therefore need to be conducted with the Housing Management, Property Services and Finance departments of Hounslow Homes. The Property Services department will collate responses to consultation from other departments via a pro-forma and return this to the Housing Enabling Team. The responsibilities of Hounslow Homes will be as follows:

- a) To provide information on management issues, both current and potential that may affect or be affected by the disposal of the asset, in compliance with the time frames laid out in the Procedures.
- b) To provide information on sites that have already been considered for potential development, in compliance with the time frames laid out in the Procedures.

- c) To advise on the potential financial implications of the sale of an asset for the Housing Revenue Account.

3.4 Legal Services:

The responsibilities of the Council's Legal Services department under this Policy will be:

- a) To conduct the relevant title searches and reports as instructed by CP, within the time frames stipulated under the attached Procedures (except in exceptional circumstances when an extension to the time frame may be necessary).
- b) To verify whether the land in question is included in other HRA tenancy agreements / Right to Buy leases.
- c) To agree the terms of land transfers and draw up the associated documentation within the time frames stipulated under the attached Procedures.
- d) To complete the disposal of assets as required.
- e) To provide further advice and assistance as appropriate.

4 Restrictions on disposal of assets:

- 4.1 Certain environmental or economic conditions will automatically preclude the sale of assets except in exceptional circumstances. The disposal of HRA assets may be refused if any of the following applies:
 - a) Any part of the land is already used by others, or others have rights over it (such as rights of way or rights of access), to include members of the public and other Council departments.
 - b) The land is a green space that is a landscaping feature of the local environment, or designated public open space.
 - c) Sale of the land would incur any 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.
 - d) The land has been identified for future regeneration or development by the Council, whether in conjunction with Hounslow Homes or another development partner, or the disposal of the asset may prejudice future development by the Council.
 - e) Consultation with internal departments or Hounslow Homes has revealed management or other issues that would cause inconvenience if the land was to be sold.
 - f) More than 40% of questionnaires sent by HDP during the public consultation period are returned stating objections to the sale.

- 4.2 The Council retains the right to refuse applications for reasons other than the above as they become apparent. Should additional reasons for refusal arise, this policy will be updated and the additional reasons will be added to the list given in 4.1

5 Definitions and links to relevant procedures

5.1 For the purposes of this policy, the following definitions will apply:

5.1.1 **Land for Amenity Use:** land will be considered as being for amenity use *only* where:

- a) the land is to be used by the applicant as amenity space, *and*
- b) any green spaces are to be retained with no significant alterations.

If the Council should agree to dispose of land to an individual for amenity use, the Council may place a restrictive covenant on the sale of the land which precludes development.

Where the application is to purchase land for amenity use as defined under 5.1.1 above, the Council will usually dispose of the land to the applicant by private treaty.

Applications to purchase HRA land for amenity use will be processed under **Procedure A**.

5.1.2 **Land for potential development:** If the criteria stated under 5.1.1 are not met, the Council will consider that the land is for potential development. This will include cases where the land is to be used for:

- a) the construction or extension of a dwelling,
- b) the construction or creation of a garage, car-port or hard-standing,
- c) the erection of a shed, greenhouse or any other storage area.
- d) access to other potential development sites (ransom strips).

5.1.3 Where the stated intended use of the land by the applicant fits the criteria stated under 5.1.1, but the Housing Development and Partnerships Team considers that the sale of the land may allow the applicant to develop the land in future, the land will be considered as land for potential development. This may be reflected in the valuation of the land, and an overage clause may be proposed where appropriate or restrictions may be placed on future development.

5.2 Applications to purchase land for potential development will be processed under **Procedure B**.

- 5.3 If the Council agrees to dispose of land for potential development and the Council considers that the land will be of use only to the applicant and may not be of interest to other parties, the Council may dispose of the land to the applicant by private treaty.
- 5.4 If the Council agrees to dispose of land for potential development and the Council considers that the land may be of interest to persons other than the applicant, the Council may dispose of the land on the open market.

6 Planning Permission

- 6.1 The Council will consider the sale of small HRA assets independently of any planning permission that the applicant may need to obtain in order to develop the land.
- 6.2 The applicant must satisfy themselves that they have fulfilled their obligations regarding planning permission for any proposed development.
- 6.3 The agreement of the Council to dispose of an asset shall not be taken as an indication of support for any planning application that may be submitted by the applicant.
- 6.4 The approval of an application for planning permission submitted by the applicant on HRA land shall not obligate the Council to dispose of the asset.
- 6.5 The Council will not enter into conditional contracts for the disposal of HRA land to members of the public subject to planning permission except in exceptional circumstances.

7 Appropriate levels of Authority for the disposal of land.

- 7.1 If the valuation of the land (as provided by CP) is below £50,000 the disposal of the land may be authorised by the Assistant Director (Housing Strategy and Services) in consultation with the Lead Member for Housing and Community Safety.
- 7.2 If the valuation of the land (as provided by CP) is between £50,000 and £100,000 the disposal of the land may be authorised by the Affordable Housing Fund Panel.
- 7.3 If the valuation of the land (as provided by CP) is between £100,000 and £5,000,000 the decision to dispose of the land should be entered on the Council's Forward Plan, and disposal may be authorised by the

Affordable Housing Fund Panel, and reported to the Executive as part of the Annual Report to the Executive.

- 7.4 If the valuation of the land exceeds £5,000,000 the decision to dispose should be entered on the Council's Forward Plan, and disposal of the land may be authorised by the Council's Executive Committee.
- 7.5 If the valuation of the land is within 5% of the upper limit of any level of authority, the disposal of the land should be considered by the lower level of authority and recommendations made, then referred to the higher level of authority for decision.

8 Fees and charges

- 8.1 The assessment of applications requires the input of a significant amount of cross-departmental officer time.
- 8.2 The Council has no statutory duty to dispose of assets, and therefore does not attract any external grant to fund the additional work required. The Council considers it reasonable to charge an administration fee to applicants for processing their application, in order to cover the costs incurred (such as officer time and travel expenses incurred in order to conduct site visits).
- 8.3 The above costs to the Council are applicable regardless of whether the eventual decision regarding disposal is in favour of the applicant or not, and charges will therefore be applied to all applications regardless of the final outcome.
- 8.4 These costs to the Council are likely to be the same regardless of the size of the piece of land in question, and a standard rate fee will therefore be applied to all applications. The administration fee to be charged by the Housing Development and Partnerships Team for the processing of applications will be £320.00 for an initial evaluation followed by a charge of £80.00 per hour for each subsequent hour required (to be reviewed annually).
- 8.5 CP standard fees are £350.00; however the fee would need to be assessed at the time of application and may be subject to increase.
- 8.6 In the case that the final decision is in favour of disposal, the applicant will also be liable to reimburse the Council for any additional costs incurred, such as legal costs and surveyors fees.
- 8.7 In the case that the final decision is in favour of disposal and the asset is to be disposed of at auction, the application processing fees and any other applicable costs to the Council will be passed to the eventual purchaser.
- 8.8 As any disposals will cause assets to be lost from the HRA, the receipt of the sale and any surplus generated from the administration fees should be paid

into the Affordable Housing Fund, and should be ring-fenced for the provision of new affordable homes in the Borough.

9 Valuations and obtaining market value:

9.1 Once the details of the land / property to be valued have been received, CP shall carry out a market valuation.

9.2 The market valuation will be undertaken in accordance with the Royal Institute of Chartered Surveyors Valuation Standards red book. Valuations will be refreshed every three months as necessary.

9.3 Where the valuation is of a specialist nature an external valuer will be appointed, the cost of which will be charged to the applicant.

10 Complaints:

10.1 The Council's decision regarding disposal is final.

10.2 If the applicant is not satisfied that their request has been correctly processed as set out under this Policy and the attached Procedures they may make a complaint to the Housing Customer Complaints Officer at the Civic Centre, or by telephone on 020 8583 4245, or email housing.customerservices@hounslow.gov.uk

10.3 If the applicant considers that the Council has acted with administrative fault and is not satisfied with the Council's consideration of the complaint, they may make a complaint to the Local Government Ombudsmen. The LGO Advice Team can be contacted on 0845 602 1983 or 024 7682 1960 (08.30-17.00, Monday –Friday).