

Decision Sheet

Reference: DRE/27/2021

Key Decision: No

Decision Sheet Re: Best Consideration Protocol

Decision Maker: Councillor S Phipps, Cabinet Member for Regeneration and Enterprise

Wards affected: All

Contains exempt information: No

1. Decision

1.1 To agree the authorisation of the attached protocol for Best Consideration in respect of the disposal of land and property by the Council.

2. Background

2.1 The Council must ensure that best consideration reasonably available is obtained in respect of all disposals of land and property.

2.2 A disposal of land and property is a freehold or leasehold (7 years or more in term) – this being a legal estate that the Council would be disposing of.

2.3 Section 123 Local Government Act 1972 states that Councils are not permitted to dispose of land or grant leases in excess of 7 years, for a consideration less than the best which can be reasonably obtained unless they have the consent from the Secretary of State.

General Disposal Consent (England) 2003 removes the requirement to obtain the consent of the Secretary of State where the undervalue does not exceed £2million, the disposal or lease contributes to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the whole or any part of the area. Exceptions of this are land/property held by Housing and Open Space Land and other limited exceptions such as the grant of a lease to an academy or free school.

2.4 The attached Protocol includes considerations and procedures that should be followed by all concerned when dealing with an undervalue consideration including:-

2.5 Obtaining a report on the valuation by a qualified Valuer,
Completion of the form by the Director of Regeneration and Enterprise or other relevant Head of Service,

2.6 Consider procurement (if appropriate) and legal advice,

2.7 Evidence on the records of the Council of the economic, social or environmental wellbeing achieved due to disposal and

2.8 The Authority from the Constitution of the Council including the reasons for the undervalue.

2.9 Risk Management - The purpose of the protocol will be to consider and deal with any risks in the disposal of land and property to ensure that all Officers and Elected Members are aware.

2.10 Human Resources and Organisation Development is not directly relevant as a result of working in this Protocol but any appropriate projects will proceed on the basis that the same will be considered. There is no direct impact on Human Resources and Organisation development as a

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result of working in this Protocol. Any HR/OD impact of specific / individual projects will be considered as appropriate.

2.11 Commercial/Procurement - There will be no commercial or procurement issues involved as a result of working in this Protocol but all projects will include this consideration and documented in future decisions of the Council.

2.12 Council Priorities - By working within this Protocol, officers and elected members will ensure that the Values and Behaviours, Borough Vision, Council Plan and future Council Programmes will be delivered to consider the disposal is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of the whole or any part of the Borough.

3. Financial Implications

3.1 The Council has a fiduciary duty to the tax payer to obtain best consideration in respect of any disposal of land and property. This Protocol will ensure that all of the appropriate considerations and steps are taken.

4. Legal Implications

4.1 Section 123 Local Government Act 1972 and the General Disposal Consent Order 2003.

5. Equality Impact

5.1 Working under the guidance of this Protocol will ensure that decisions will be made and the impact on the wider Borough including the impact of people with different protected characteristics eg age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

6. Authorisation

Councillor S Phipps, Cabinet Member for Regeneration and Enterprise

Signed:

In consultation with:

Helen Martin, Director of Regeneration and Enterprise

Signed: 

Decision date: Friday, 22 October, 2021

Prepared by: Mandy Wilcox

Associated documents and images

No documents have been associated with this decision
Protocol on Best Consideration (pdf)