

ABERDEEN CITY COUNCIL

COMMITTEE	Finance & Resources
DATE	29 September 2011
DIRECTOR	Gordon McIntosh
TITLE OF REPORT	Property Asset Management Plan - Process for Considering Requests to Acquire Property at less than Market Value
REPORT NUMBER:	EP/11/245

1. PURPOSE OF REPORT

The report advises of the implementation of the Disposal of Land by Local Authorities (Scotland) Regulations, which regulates how local authorities can dispose of property for less than best consideration. It details how these Regulations should be managed by the City Council.

2. RECOMMENDATION

It is recommended that the Committee approves the processes detailed in the Report for the consideration of requests to dispose of property at less than market value by both external parties and public sector partners.

3. FINANCIAL IMPLICATIONS

There are no financial implications generated by this specific report

4. OTHER IMPLICATIONS

There would be an increase in work load within the Asset Management Teams in managing the new processes and undertaking the appropriate Option Appraisals, although this cannot be quantified at the present time.

5. BACKGROUND/MAIN ISSUES

The Finance & Resources Committee at its meeting on 10 December 2010 during consideration of a report to lease a site to Nether Loirston Growers Association instructed the following:-

“to instruct the Head of Asset Management and Operations (1) to carry out further investigations in relation to the transfer of assets to community groups, and the use of powers under ‘The Disposal of Land by Local Authorities (Scotland) Regulations 2010’; and (2) to include his findings in the 2011 Property Asset Management Plan Update.”

Historically local authorities had to dispose of property in accordance with the Local Government (Scotland) Act 1973 i.e. best financial consideration (which usually meant at Market value) unless with the Scottish Government’s expressed consent. There was however no guidance available to either party to determine how a request to dispose of a property at less than market value was to be evaluated.

Section 11 of the Local Government (Scotland) Act 2003 amended the 1973 Act, allowing local authorities to sell property at less than best consideration without the need for further Ministerial approval. This provision was never enacted due to the lack of regulatory detail. Such detail was provided by the publication of the Disposal of Land by Local Authorities (Scotland) Regulations, which came into force on 1 June 2010.

The Act applies to every disposal of an interest in land, including:-

- Sale or lease (including an option)
- Whether land is sold on the open market or privately
- Whether internal or external consultants used

The Guidance Note (attached as Appendix 1) indicates that authorities should take cognisance of the following when considering a disposal at less than best consideration:-

1. A plan and/or written description of the site and buildings, its physical characteristics, location and surroundings.
2. Details of the current use of the land.
3. The best consideration that can reasonably be obtained for the interest as assessed by a qualified valuer (i.e. a valuer who is chartered Member of, or is authorised to practice by, the Royal Institution of Chartered Surveyors) and the date that this assessment was obtained.
4. Details (where applicable) of the key terms and any restrictions imposed by the authority regarding the disposal, including any clawback provisions.

5. Details about the purchaser: name of the person or organisation, aims and objectives, Board or governance structure, how it is funded and whether charitable status is held etc.
6. An outline of what the purchaser intends to do with the land and whether there has been involvement of local people/service users.
7. A copy of the most recent accounts (if available) or written evidence that the purchaser is financially able to maintain, renovate, etc. the land to be disposed of or leased.
8. Details of the options appraisal and cost/benefit analysis carried out by the local authority including any alternative use for the land, (e.g. a copy of the options appraisal report and Committee/Council decision/Minute).
9. Details of the inclusion of the proposed land disposal within the authority's Asset Management Plan.
10. Details of how the disposal at less than best consideration that can reasonably be obtained, will contribute to one or more of the purposes set out in regulation 4(2) of the Regulations (including economic development or regeneration, health, social well being, and environmental well being).
11. An indication of the local demand for these services and details of any known opposition or support for the proposal and the measures (if applicable) taken by the authority to deal with the opposition.
12. Confirmation the disposal complies with the European Commission's State aid rules.
13. When using arms length organisations to deliver services, information on the reviews and option appraisals taking account of the COSLA/Accounts Commission Code of Guidance on funding external bodies and following the public pound.

Within the Scottish Government's Guidance to all organisations covered by the Scottish Public Finance Manual on the Acquisition of Property

(www.scotland.gov.uk/Topics/Government/Finance/spfm/property)

there is a requirement that an Option Appraisal consistent with the UK Treasury's [Green Book](#) must be undertaken to justify the acquisition.

This matter has been considered by the Corporate Asset Group, who at its meeting on 25 July 2011 agreed to recommend to this Committee that the following new process be followed to manage any request to dispose of property at less than market value:-

1. The process is managed by the General Manager – Asset Management;

2. Appropriate officials prepare an Option Appraisal, in accordance with the guidance;
3. The request is firstly considered by the Corporate Asset Group, who will make a recommendation on the request to the next appropriate Finance & Resources Committee.

The Public Sector Property Group has considered how the Regulation should be managed if one public sector organisation requests that another dispose of an asset at less than market value. The following process has been recommended to all its partners:-

- a) The market value is firstly determined by the current agreed Process;
- b) The acquiring authority thereafter submits an Option Appraisal to the disposing authority for consideration;
- c) The Option Appraisal must show:-
 - All linkages to the Single Outcome Agreement within the appropriate local authority's boundaries (irrespective of the parties involved);
 - The reasons why the acquiring authority cannot afford to acquire at market value, including the impact on its Capital Programme.
- d) The disposing authority must consider the request in accordance with the appropriate Regulations.

Again it is proposed that the request would be managed by the General Manager – Asset Management, reporting in the first instance to the Corporate Asset Group and thereafter to this Committee.

6. IMPACT

Corporate – The new process will help ensure that all requests can be shown to have been fully considered and evaluated in accordance with Best Value

Public – The process will assist the public in understanding how such requests are considered and the steps that they require should they wish to make such a request.

7. BACKGROUND PAPERS

Disposal of Land by Local Authorities (Scotland) Regulations 2010

8. REPORT AUTHOR DETAILS

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