



Department for
Communities and
Local Government

Local Authority assets

Disposal Guidance



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Contents

Introduction	4
1 – The local authority role	6
Transparency	6
Disposals	6
2 - The government’s offer	10
One Public Estate	10
Starter Homes	11
Flexibility in the use of assets	11
HCA support	12
Garden villages, towns and cities	13
3 – Further technical guidance	15
Disposal of assets at less than best consideration	15
Valuation standards	15
OJEU and delivering through a Partner Panel	15
HCA assistance	16

Introduction

The government wants to support and empower local authorities to dispose of assets that could be made surplus. At the Spending Review 2015, the government therefore announced a package of measures to enable the release of public sector assets for more productive use, supporting growth and efficiency.¹

To support more efficient and sustainable services, from 1 April 2016 to 31 March 2019, local authorities will be able to spend receipts from asset sales (excluding Right to Buy) on the revenue costs of reform projects, subject to the conditions set out in the Secretary of State's direction of 11 March 2016². Local authorities will now be able to reinvest the proceeds of asset sales in their services, enabling them to deliver more for less.

The government is also working with local authorities and other public sector property owners to support them working together to make more productive use of their collective assets. Summer Budget 2015 announced £6 million to extend the One Public Estate programme to a third phase of council partnerships. At Spending Review 2015 we announced further funding of £31 million to support local authorities to work with others and design more efficient asset management strategies. Chapter 1 of this note sets out further guidance on property disposals for local authorities, alongside details of other government policies to support them to dispose of sites that could be made surplus.

The government is committed to increasing the supply of land for housing, and has made the disposal of its surplus land for housing one of its top priorities.

In the last Parliament, the government exceeded its ambition to release land with capacity for 100,000, with land for 109,000 homes disposed of by March 2015. This Parliament the government is determined to go further and faster, and at Autumn Statement 2015, the Chancellor announced that central government departments would release land for over 160,000 homes by 2020.

Local government is equally committed to driving an increase in the supply of homes. In the year to December 2015, planning permission was granted for 253,000 new homes.³ Local government is expected to sell assets with a value of £11.7bn by the end of this parliament, with the disposal of land for housing a key part.⁴

At Budget 2016, the Chancellor announced that, local authorities and central government are collaborating on a public sector land ambition, working with their partners to release

¹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479749/52229_Blue_Book_PU1865_Web_Accessible.pdf

² <https://www.gov.uk/government/collections/final-local-government-finance-settlement-england-2016-to-2017#other-documents-related-to-final-settlement-2016-to-2017>

³ DCLG analysis of Glenigan data: <https://www.gov.uk/government/statistics/planning-applications-in-england-october-to-december-2015>) which exceeds expected annual growth in the number of households in England (<https://www.gov.uk/government/statistics/2012-based-household-projections-in-england-2012-to-2037>)

⁴ OBR Supplementary Fiscal tables November 2015

surplus local authority land with capacity for at least 160,000 homes, supporting the government's policy on estates regeneration

The government will continue to work with the sector to look for opportunities to go further, with a view to raising the ambition.

The combined efforts of central and local government to release land for 320,000 homes by 2020 will make a real difference to land supply, and help drive a long term increase in the supply of new homes.

Releasing land is only the first step. If our shared ambition is to bear fruit, we need the housebuilding industry to respond in kind and accelerate the delivery of new homes on this land. We want the industry to respond to this challenge by taking hold of these new opportunities, delivering high quality homes at pace and supporting growing communities.

This document brings together useful information and guidance for local authorities to use when disposing of property, including wider government initiatives that may help local authorities to unlock opportunities for rationalising their estate.

1 – The local authority role

The government wants to support growth and efficiency by empowering local authorities to dispose of assets that could be made surplus and put to more productive use.

Transparency

It is important that data on land assets held by public bodies is open and transparent, to ensure local people are able to hold them to account for the resources they use on their behalf. Data on central government land assets, as well as data from a number of local authorities, is held on the government's electronic Property Information Management System (ePIMS), which is available on the internet through the Government Property Finder portal⁵. To improve accessibility and consistency, we are consulting on updating the Transparency Code so that all local authorities can record details of their land and property assets on ePIMS. Including central and local government assets in a single database will make it easier for authorities to work together to ensure that public assets are used as efficiently as possible. The Housing and Planning Bill also includes measures which will help ensure better collaboration where central government departments are disposing of land, and increase transparency and efficiency in the use of public land assets.

Disposals

Where land or property is identified as surplus, there are some important principles which will help ensure that land is disposed of effectively and efficiently. These include;

- **Every disposal having clear objectives from the outset.** These should establish the key objectives and targets for land disposal – for example, this could be to maximise housing capacity, receipt or employment floorspace, or to reduce costs through divestment.
- **Disposals rooted in local plans.** Land disposals should help deliver local planning objectives, addressing matters such as the requirement for a five year land supply, or the assessed need for housing and employment land.
- **Early and meaningful engagement with other public bodies and the market.** Early engagement with other public bodies will ensure that the views of all authorities with an interest can be taken into account, so that land is used as efficiently as possible. Early market engagement should inform the disposal strategy and brief, and ensure the opportunity is attractive to the market.
- **The appropriate level of investment determined prior to disposal.** To ensure the best possible return, in many cases it may be appropriate to invest in a site

⁵ www.gov.uk/find-government-property

before disposal, for example by obtaining planning permission or providing infrastructure. The appropriate type and scale of investment will depend on the individual circumstances of the site, and understanding these early will ensure the best outcome for authorities.

**Case study:
West Lancashire Borough Council's Ward by Ward study**

Five years ago, West Lancashire Borough Council resolved to examine and challenge the use of all its land and property holdings on a ward by ward basis.

Any proposed changes in the use or potential disposals of the assets identified were discussed with the ward councillors and the resultant recommendations were reported to Cabinet.

This has resulted in extra allotment sites being established, land for garden extensions being identified and capital receipts being actioned. It has also allowed the Council to offer smaller housing plots for self builders and local construction companies which would otherwise not have been available. One site which was identified as part of the process was a large under used area of Public Open Space.

The Housing Needs Survey for the Borough identified a requirement for affordable rental accommodation and an agreement with a registered provider to provide twelve new dwellings with the s106 contribution supporting the enhancement of the remaining Public Open Space.

A second site identified was a car parking area next to an unused parcel of land which adjoined a public park. A disposal was negotiated which saw the developer building a new car park which offered twice as many parking spaces following which the developer built a few flats on the site of the original car park.

Disposal of land can be undertaken in a number of ways. Different approaches have different advantages and disadvantages, and which approach is appropriate will depend on the disposal objectives of the authority and the circumstances of the land. It is for the local authority to determine the most appropriate sales mechanism for their asset, but potential approaches include:

- Formal Tender – where the sale is publicly advertised and tenders submitted by a given date. There is no negotiation after the deadline for receipt of tenders, and once a tender is accepted it constitutes a binding contract of sale. This approach enables a transaction to be completed quickly, but requires detailed and precise preparation.

- Informal or Negotiated Tender – where informal tenders are invited by a given date subject to contract. Negotiations may continue after tenders are received, with the possibility that different bidders may compete to offer the the most advantageous terms. A binding legal agreement is created on exchange of contracts with the chosen tenderer. This approach enables the seller to continue to negotiate after the closing date for tenders to ensure the best possible tems, but can be time consuming to finalise.
- Public Auction – where land is sold through an open auction, available to anyone. Sales will be publicly advertised in advance. A binding legal agreement is created when a bid is accepted by the auctioneer. Auctions have the advantage of being transparent and fair, and allow for transactions to be completed quickly. However, success can depend on there being a range of interested bidders present at the auction.
- Private sale – where the sale of land is negotiated with one or a small number of potential buyers at a price agreed between the parties, usually, but not always, following a marketing exercise. A binding legal agreement is created on exchange of contracts. Private sale has the advantage of being straightforward, but is likely to be appropriate only in certain curcumstances (for example for smaller lots of land, where sitting tenants have rights to purchase etc), and care must be taken to ensure best consideration is achieved,
- Exchange of Land - disposal by exchange is appropriate where it will achieve best consideration. The exchange land should be of equal value, with any inequality in land value compensated for by payment.

The government recognises that its overall aim of supporting and facilitating the release of more public land for housing will not always be met through the outright disposal of land. In some cases, local authorities may choose to retain land and take a more direct role in delivery, potentially with land transferred as equity. Where this does not include social and affordable housing, local authorities can deliver homes outside of their Housing Revenue Accounts. Possible models include:

- Wholly-owned companies acting as vehicles for market housing development
- Joint ventures with other public bodies, such as a neighbouring local authority or the Homes and Communities Agency (HCA)
- Joint venture with private sector partners
- Other innovative models such direct commissioning, Build to Rent, or Build Now Pay Later, which can improve viability by reducing financing risk in the early stages of a development

Case study:
Cheshire East and the Engine of the North

Cheshire East has a significant contribution to make to the housing growth agenda. The Local Development Framework has identified a requirement to create at least 31,000 jobs and 36,000 new homes by 2030, as well as major new highways infrastructure. The target for the next five years is to deliver at least 14,000 homes.

Crewe has been identified by HS2 as the site for a new hub station, and this will be a significant feature of Council's future plans.. It is anticipated that the growth associated with HS2 will provide a further 100,000 homes for the Northern Gateway with associated economic growth.

To address this challenge, the Council have, since 2012, approved permissions for around 12,700 homes, bringing the current total of housing commitments to over 15,000 units. However, in that same period, there have been only 3,300 houses completed in Cheshire East.

Cheshire East has undertaken an in depth analysis of build rates on sites across the borough to understand the rate at which sites are coming forward, organised by site size. As at January 2016 there were:

- 35 sites currently under construction
- 34% with capacity of 50-100 units
- 37% with capacity of 101-200 units
- 29% with a capacity of 200+ units

To improve work with with the private sector, Cheshire East has created a wholly-owned development company called 'Engine of the North'. The key objectives for Engine of the North are to lever public sector assets to create added value to the public sector. Engine of the North is responsible for bringing residential sites to the market, and enhancing land assets, through obtaining planning permissions, providing infrastructure, or carrying out detailed site investigations.

Cheshire East expects to deliver over 4,000 homes through the development of its own sites, and is currently in the process of putting a framework in place to deliver up to 1,000 new build starter/affordable homes.

Engine of the North aims to reduce risk attached to sites, making the land more attractive to private house builders to build at pace. The company is also working with private sector developers to develop new delivery models for the self-building of affordable and Starter Homes.

2 - The government's offer

There are a broad range of policy measures in place which can play a role in supporting local authorities to release land for housing.

One Public Estate

The One Public Estate (OPE) programme, delivered jointly by Cabinet Office and the Local Government Association (LGA), channels funding and practical support through local authorities to deliver collaborative property-focused projects with central government and others. It began as a pilot programme in 2013 and recently announced 107 councils in 24 partnerships were successful in joining a third phase. It supports partnerships to deliver ambitious programmes to deliver more integrated, customer-focused services; boost local growth, including homes and jobs; and achieve efficiency savings which can be re-invested.

The programme received a double-boost in funding in 2015: £6 million at Summer Budget 2015 to roll the programme out to a third phase of councils; and £31 million at Autumn Statement 2015 to support more councils and partnerships. Cabinet Office and the LGA plan to publish a prospectus for Phase 4 of the programme by early April 2016.

Case Study: London Borough of Croydon

Croydon Council has set a target of 1,900 housing starts a year over the next five years. To help meet this target, Croydon Council, as part of the OPE programme, has been working across the public sector to determine how a combined asset management approach can release land for housing. The Council has brought partners together under a new Property Board to shape the local public land agenda and develop an integrated estates strategy.

The council has established a council-owned development company to directly build new homes. In 2015 the council carried out a wide-ranging review of assets to identify routes to unlock housing delivery. A pipeline of projects with housing potential was established, of these 15 sites owned by the NHS or council were identified. Through Phase 3 of OPE, Croydon will be looking to bring forward 'quick win' pilot projects in partnership with the NHS. These include (amongst others):

- The Croydon University Hospital site, which has potential to deliver 350 – 800 new homes alongside an improved A&E facility
- The Central Parade, New Addington site, which is proposed to be allocated in the Croydon Local Plan. The aim is to deliver a landmark high quality mixed-use regeneration scheme providing new homes and associated facilities including a leisure centre, shared community facility, and a health and wellbeing centre.

OPE funding will be used to accelerate progress and bring forward the developments earlier than would otherwise have been the case. It is hoped that the pilot projects will form the basis of a longer term integrated estates strategy with the NHS, looking at service integration and regeneration opportunities across all of Croydon.

Further information on One Public Estate can be found at:

<http://www.local.gov.uk/onepublicestate>

Starter Homes

Starter Homes are new homes, offered exclusively to young first time buyers at a discount of 20%, to enable them to get onto the property ladder. The government has a manifesto commitment to build 200,000 starter homes by 2020, and is now introducing a comprehensive package of planning reforms and funding initiatives to achieve this.

Local authorities will have an important role to play in the implementation of these reforms as the local planning authority. The starter homes reforms also provide an opportunity to local authorities as important landowners to help more young people into homeownership and support local growth ambitions.

The government is making £1.2 billion available to prepare more brownfield sites for at least 30,000 starter homes through a new Starter Home Land Fund. A prospectus has been published alongside Budget 2016 inviting local authorities to work with the HCA to access the Fund. Interested local authorities should discuss further with their local HCA representative how they could benefit from the Fund.

Flexibility in the use of assets

At Spending Review 2015, the government announced that, to support local authorities to deliver more efficient and sustainable services, it will allow local authorities to spend their asset receipts (excluding Right to Buy receipts) on the revenue costs of reform projects. Local authorities will now be able to reinvest the proceeds of asset sales in services that allow them to deliver more for less.

This flexibility will be available to local authorities from 1 April 2016, for a period of three years. When making use of this flexibility, local authorities must have regard to the *Guidance on Flexible Use of Capital Receipts (updated)* issued by the Secretary of State.

Further information on the flexibility to use capital receipts can be found at:

<https://www.gov.uk/government/collections/final-local-government-finance-settlement-england-2016-to-2017#other-documents-related-to-final-settlement-2016-to-2017>

HCA support

As the second largest land disposal body in the public sector, and as the government's preferred organisation for the disposal of surplus central government land, the HCA has developed significant expertise in land disposal policy and practice. As such, and through its network of local teams, the HCA will provide support to those local authorities that seek its assistance to realise their land disposal plans. This could, for example, include:

- assistance with identifying those sites with the greatest potential for housing
- the procurement of professional advisers through the HCA's framework panels
- advice on disposal strategies and legal structures to facilitate efficient disposals and support build out
- Direct support can also be provided by the Advisory Team for Large Applications (ATLAS). The assistance provided would be bespoke to each local authority, but might typically have a focus on providing expertise around planning for delivery

Case study:

Matrix Homes Joint Venture initiative, Gorton Monastery, Manchester

In 2014, the HCA invested its land at Gorton Monastery into the Matrix Homes Joint Venture (JV) initiative. Matrix Homes is an innovative direct commissioning model that constructs sells and manages homes for high quality open market sale and private rent. The JV is jointly owned by Manchester City Council (MCC) and the Greater Manchester Pension Fund (GMPF).

The model was initially developed as a response to increases in demand for housing in Manchester due to household and population growth, and the reduction of available development and mortgage finance. Along with forecast economic and employment growth in Manchester, these factors continue to generate further need for additional homes and greater choice of housing type and tenure.

The JV development comprises five sites – four owned by MCC and the HCA's 1.8ha site at Gorton Monastery. When completed it will deliver 240 new homes (121 for sale and 119 for rent), many of which have already been sold or let.



With the Matrix Homes company, MCC and the HCA have land to invest; and GMPF providing funding. The aims of the JV are for investor partners to take a revenue return on their investment and a share in the capital return. Revenue return is generated through market rentals and the capital return through house sales.

Choosing to employ a building contractor rather than a developer partner minimises their overheads and profit, as they have no sales risk because the partnership will be the owners of the completed units. This equated to around 8.5% of construction costs compared to traditional house builder profits of around 20%.

The five main elements of the project are:

- The investor (GMPF) funds the construction costs of the development
- The landowner (MCC) provides the sites on which to build the homes
- A development contractor is procured to design and build the properties (using HCA's Delivery Partner Panel)
- A head tenant (management company) is secured to lease and manage the privately rented units

A sales and marketing team is procured to publicise the development and sell a specified number of homes for home ownership (using HCA's DPP).

Further information on the HCA can be found at:

<https://www.gov.uk/government/organisations/homes-and-communities-agency>.

Garden villages, towns and cities

Alongside Budget 2016, the government has announced an extension to our current garden cities programme (which is restricted to new garden towns and cities of over 10,000 homes), to those local authorities with ambitious proposals for new garden villages and towns on a smaller scale. A prospectus will be launched shortly that offers renewed support to larger scale garden towns (10,000+ homes) and a new programme of support for garden villages and smaller garden towns (1,500-10,000 homes).

This is aimed at local areas who believe that new garden villages and towns can play a key role in meeting local housing needs over the medium-long term, with the support of local communities.



We particularly welcome proposals from local authorities who are interested in utilising their public sector land to deliver new settlements of any size above 1,500 homes based on garden city principles. We will work with authorities to identify what government support will help deliver the new settlement, whether through targeted funding to help provide local skills and capacity, or greater planning freedoms.

3 – Further technical guidance

Disposal of assets at less than best consideration

Local authorities are usually required to dispose of land on the basis of the best consideration reasonably obtainable. Local authorities disposing of land should have regard to the requirements set out in Circular 06/03

(<https://www.gov.uk/government/publications/disposal-of-land-for-less-than-the-best-consideration-that-can-reasonably-be-obtained-circular-06-2003>).

However, in certain circumstances local authorities may dispose at less than the best consideration. The Royal Institute of Chartered Surveyors has published a leaflet (Local Authority Asset Management 07 Disposal of Land at Less than Best Consideration) which local authorities may find helpful:

<http://www.rics.org/uk/knowledge/guides-advice/local-authority-asset-management/local-authority-asset-management-07-disposal-of-land-at-less-than-best-consideration/>

Valuation standards

Valuers which are members of the Royal Institute of Chartered Surveyors may also refer to UK Guidance Note 5 of the RICS Valuation – Professional Standards UK, which is available online to RICS members only at <http://www.rics.org/uk/knowledge/professional-guidance/red-book>. For valuation of Local Authority Assets for accounting purposes, valuers should have regard to UK Appendix 5 – Valuation of Local Authority Assets.

OJEU and delivering through a Partner Panel

There are a number of partner panel approaches which can assist local authorities in discharging EU procurement requirements. For example, the Delivery Partner Panel 2 (DPP2) is a framework panel and a key tool for the delivery of housing-led developments on land owned by the HCA and other public sector bodies. It supports the acceleration of public sector land into the private sector by providing a quick, efficient and reliable way of procuring both construction and development work through an Official Journal of the European Union (OJEU) compliant route.

The panel can be used for a range of services related to housing led development from obtaining planning permission, through design and construction, to marketing and sales. Quality standards can be set to meet the needs of each individual project.

DPP2 allows for early engagement with the private sector in the process of developing a site. Panel members can provide soft market testing and advice to ensure that development opportunities offered to the panel are fully thought through, viable and well resolved.

The DPP2 builds on HCA's experience of operating its first Delivery Partner Panel, DPP1, which delivered 20,000 homes over its three-year term.

Further information can be found at

<https://www.gov.uk/guidance/delivery-partner-panel-2>

HCA assistance

As set out in the 'HCA offer' section above, the HCA will be able to provide advice and support on the matters set out in this guidance.