

**REPORT TO:** CABINET

**DATE:** 25 MARCH 2021

**TITLE:** POLICY AND PROCEDURE FOR DISPOSAL OF LAND WITHIN THE HOUSING ESTATES

**PORTFOLIO HOLDER(S):** COUNCILLOR MIKE DANVERS, PORTFOLIO HOLDER FOR RESOURCES

**LEAD OFFICER:** SIMON FREEMAN, HEAD OF FINANCE AND PROPERTY AND DEPUTY TO THE CHIEF EXECUTIVE (01279) 446228

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**This is a Key Decision**

**It is on the Forward Plan as Decision number I012496**

**Call-in Procedures may apply**

**This decision will affect no ward specifically.**

**RECOMMENDED that:**

**A** Cabinet adopt the updated policy for the disposal of land within the Housing Estates as set out in Appendix 1 to this report.

**REASON FOR DECISION**

**A** To update the existing policy and procedure for processing applications from members of the public to acquire small landscape areas within the Housing Estates (“Land Applications”) to align with current legislation, the Council’s constitution and local development plan policies.

**B** To introduce a replacement policy which sets out procedures for processing Land Applications and a clear criteria under which applications will be determined.

**C** To ensure that a framework is in place to enable each Land Application to be assessed on its merits ensuring as far as possible that:

i) where appropriate land is retained by the Council; and

ii) where land is disposed of, the Council is acting in accordance with relevant statutory provisions and legislation.

- D** To introduce a revised fee structure for Land Applications to reflect current service costs.

## **BACKGROUND**

1. The Council receives approximately 30 Land Applications per annum. Prospective purchasers are usually looking to either increase the size of their existing garden, create space for further development (e.g. an extension or garage), or to gain additional access to their land.
2. The vast majority of the subject land parcels are of modest size (around 0.2 acres on average) and of relatively low value, usually around £3,000 to £5,000 per sale.
3. It is necessary for the Council to maintain a Land Application policy so that Officers and members have a framework against which to assess applications. This includes clear criteria for rejecting applications where rights of use, environmental conditions, or potential impact on future Council led redevelopment aspirations would make a proposed disposal inappropriate.
4. The existing policy and procedure for dealing with Land Applications has not been reviewed for a number of years and is now needs to be modernised to reflect updates in legislation, the Council's constitution and the Council's local plan.
5. Pending adoption of the Council's new local plan a moratorium on processing Land Applications was introduced. Now the new local plan has been formally adopted, officers wish to put in place a new Land Application policy, so that applications can again be processed.
6. Upon adoption of a new Land Applications policy, details will be published on the Council's website and online forms established to streamline the process.

## **ISSUES/PROPOSALS**

7. It is not always appropriate to dispose of land where that land is, or has the potential to be, of strategic importance to the Council. The proposed Land Applications policy sets out detailed criteria under which a Land Application may be refused to ensure that the Council has the ability to retain land where that it is considered appropriate.
8. The updated Land Application policy has regard to the relevant statutory provisions and legislation on the disposal of land by Local Authorities, the brief details of which are set out below:

a) Sale of land held under the Council's Housing Revenue Account

- i) Section 32, subsection 2 of the Housing Act 1985 requires the consent of the Secretary of State to dispose of land. Any request to purchase land has to be considered in accordance with any General Housing Consent/s that may be in force. The General Housing Consent 2013 states that "A Local Authority may dispose of vacant land."
- ii) Where the land is considered vacant, a local authority may dispose of that land and assets that are not dwellings (e.g. garages, drying areas etc.) at any price determined by the local authority.
- iii) If the General Housing Consent 2013 is revoked the Council will consider Land Applications in accordance with terms of such General Housing Consent that may replace it.

b) Sale of land held under the Council's General Fund account (Non-housing land)

- i) Section 123(1) of the Local Government Act 1972 provides that a Council may dispose of land held in any manner they wish. Section 123(2) of that Act requires the Council not to dispose of the land for consideration less than the best that can reasonably be obtained. Land Applications are not permitted over land designated as public open space and section 123(2A) of that Act does not apply.
- ii) Any small parcel of land that is to be disposed of must comply with Section 17.10 of the Council's Contracts Standing Orders.

9. The Council's Contract Standing Orders special case 47.2 requires that the disposal of land to owner-occupiers which does not exceed 50% of the size of the applicants existing garden land, shall only be subject to approval of the Head of Service. For the purposes of this policy, the Lead Officer nominated by the Head of Service is authorised to make a delegated decision in relation to the sale of such land.

10. Where the land subject to a proposed sale exceeds 50% of the size of the applicants existing garden (and is within the scope of the Land Applications policy), the proposed Land Application policy provides for the decision on whether or not to sell the land is to be made by the Council's Cabinet in accordance with Council's Contracts Standing Orders.

## **IMPLICATIONS**

### **Environment and Planning (Includes Sustainability)**

The proposed policy criteria will provide sufficient scope to protect the natural environment from inappropriate development and ensures that land sales will not proceed if planning consent is not obtained.

**Author: Andrew Bramidge, Head of Environment and Planning**

### **Finance (Includes ICT, and Property and Facilities)**

As contained within the report.

**Author: Simon Freeman, Head of Finance and Property and Deputy to the Chief Executive**

### **Housing**

It is imperative the principles and processes behind the procedures are maintained so that there is proper and effective involvement from services, ensuring the challenges of delivering the required housing/regeneration strategies.

**Author: Andrew Murray, Head of Housing**

### **Community Wellbeing (Includes Equalities and Social Inclusion)**

As contained within the report.

**Author: Jane Greer, Head of Community Wellbeing**

### **Governance (Includes HR)**

No specific other those contained within the report.

**Author: Simon Hill, Head of Governance**

## **Appendices**

Appendix 1 – Land Sale Policy

## **Background Papers**

Harlow Council Constitution Part 4 – Rules and Procedure:

[https://moderngov.harlow.gov.uk/documents/s15828/Constitution Part 4 - Rules of Procedure.pdf](https://moderngov.harlow.gov.uk/documents/s15828/Constitution%20Part%204%20-%20Rules%20of%20Procedure.pdf)

## **Glossary of terms/abbreviations used**

None.