

ANNEX A1

Land and Property Disposal at Less than Best Consideration

Statutory position.

1. Section 123 of the Local Government Act 1972 states that Councils, “except with the express consent of the Secretary of State”, cannot dispose of land (other than by way of a short tenancy i.e. grant of a term not exceeding 7 years) for a consideration less than the best that can be reasonably obtained in the market.
2. The 1972 Act authorised the Secretary of State to issue General Disposal Consents for particular types of cases. However, the General Disposal Consent (England) 2003 gives Local Authorities greater freedom to dispose of any interest in land at less than best consideration without the specific consent of the Secretary of State. Under this General Disposal Consent local authorities may consider disposal at a reduced price if the purpose for which the land is to be disposed of is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of its area.
3. The difference between the unrestricted value of the land to be disposed of and the consideration of the disposal must not exceed £2 million. All proposed transactions where the aggregate of “under value” exceeds the £2 million threshold will require specific consent from the Secretary of State.
4. The unrestricted value is the sale price if the Council does not impose any additional considerations or restrictions (or it is the value of the property subject to a lease without restrictions). The restricted value is the price based on the proposed transaction i.e. taking into account the effect on value of conditions added by the Council.
5. There are a limited number of circumstances where the General Disposal Consent will not apply. These include housing land, open space land and land held under specific statutory powers that preclude a sale under the Local Government Act 1972.
6. However, a further General Disposal Consent under Section 25 of the Local Government Act 1988 allows disposals of land at an undervalue to Registered Social Landlords for the purpose of developing housing accommodation. In this case, the difference between the unrestricted value of the land to be disposed of and the consideration of the disposal must not exceed £10 million in aggregate in the same financial year.
7. The Government circular that accompanied the new General Disposal Consent strongly advised Councils to obtain a realistic valuation on the under value in all cases. All values are to be reported in capital, not rental, terms i.e. discounted rent times the number of years granted.

ANNEX A2

POLICY ON DISPOSALS OF LAND AT LESS THAN BEST CONSIDERATION

1. Dacorum Borough Council has adopted a vision and priorities for the community, incorporated in the Council's Corporate Plan 2012-2015 that demonstrates the Council's commitment to the economic well-being of place, with specific aspirations for business retention and growth, regeneration and affordable housing, setting out specific programmes to deliver those aspirations.
2. This focus is underpinned by an economic well-being partnership, 'Destination Dacorum' the Board of which incorporates individuals and organisations with significant local influence on well – being in the area, and with devolved responsibilities across partner organisations to deliver its plans.
3. The Council recognises the importance of maximising capital receipts as a fundamental objective to secure value for money, and ability to fund capital projects.
4. Notwithstanding this, and in pursuit of creating the conditions for growth, jobs, regeneration, and affordable housing, the Council will exercise an enabling and positive approach to exploring the disposal of land and property at less than best consideration, where there is a compelling and demonstrable case (through quantitative and qualitative measures) that the community will secure outcomes that exceed the foregone value.
5. Where circumstances apply the Council is minded, in pursuit of its local community leadership role, and in the best interests of the community, to exercise opportunities to seek consent from the Secretary of State to exceed statutory thresholds.
6. That foregone value will include a robust assessment of current value, and opportunity costs, and benefits, arising from the disposal.
7. All negotiations and processes will comply with the Council's agreed procedures for disposal of land and property, including a rigorous assessment of risk.
8. Within the context of 'best consideration' the Council will explore the potential for a joint venture approach to regeneration schemes should such opportunities arise.
9. This statement will be incorporated into the Council's asset management strategy and other strategies and plans as appropriate.