

# APPENDIX 1

## MENDIP DISTRICT COUNCIL

### DISPOSALS & ACQUISITIONS STRATEGY

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## **METHOD OF DISPOSAL OF SURPLUS/UNDERUSED COUNCIL OWNED PROPERTY**

### **Introduction - General**

- 1.1 This strategy details the Council's internal guidance relating to disposals and acquisitions of land. It sets out the Council's required policies and procedures including its statutory requirements.
- 1.2 The purpose of this document is to make the Council's strategy, policies, guidance and procedures transparent and public. This document is intended to promote expediency in the way that disposals and acquisitions are dealt with by the Council. It is for use by Council officers and to inform developers and members of the public.

### **Disposals**

- 2.1 This part of the strategy sets out, in sequence, the procedure to be adopted in connection with the disposals of land or property.
- 2.2 For the purpose of this document, a disposal of land means any freehold disposal, by sale or exchange, of Council owned land or buildings and any disposal by the granting of a license or lease.
- 2.3 It is important that each land disposal is treated on its own merits and nothing in this document will bind the Council to a particular course of action in respect of a land disposal. In particular and where the disposal is by the granting of a license, a short tenancy or the freehold disposal value is less than £10,000, the Council may adopt a streamlined procedure.
- 2.4 Alternative methods of disposal, not specifically mentioned in this document, may be used where appropriate, subject to obtaining proper authority.
- 2.5 The Council's actions in disposing of land are subject to statutory provisions; in particular, to the overriding duty on the Council, under section 123 of the Local Government Act 1972, to obtain the best consideration that can be reasonably obtained for the disposal of land. This duty is subject to certain exceptions that are set out in the 'Local Government Act 1972: General Disposal Consent (England) 2003'
- 2.6 This document should be read in conjunction with the Scheme of Delegation to Officers and Members, Corporate Financial Rules, Procurement Rules, the Capital Strategy and the Strategic Asset Management Plan.
- 2.7 The Corporate Finance Advisor will be consulted at all stages of a disposal proposal.

### **Definition of Surplus/Underused property/Asset rationalisation**

- 3.1 A building/site is deemed to be surplus to the Council's requirements if:
  - (a) it makes no contribution to the delivery of the Council's services nor generates any net income, and

- (b) it has no potential for future service delivery or strategic or regeneration/redevelopment purposes, or
- (c) an alternative site has been identified which would achieve more cost effective service delivery and the existing site has no potential for future alternative service delivery or strategic or regeneration/redevelopment purposes.

3.2 A building/site is deemed to be underused if either:

- (a) the income being generated from the site from all or a substantial part of it is below that which could be achieved from:
  - (i) an alternative use
  - (ii) disposing of the site and investing the income
  - (iii) intensifying the existing use, or
- (b) part of the site is vacant and is likely to remain vacant for the foreseeable future.

3.3 Asset rationalisation may require the need for a disposal in certain circumstances such as:

- (a) where a building/site requires a considerable and disproportionate capital expenditure in relation to its use and benefit
- (b) there would be a beneficial effect on the Council's surrounding assets
- (c) a disposal would reduce revenue cost or resources needed including where the long-term cost of management and maintenance of the asset exceeds its value

### **Site Identification and Development Objectives**

4.1 Sites for possible disposal may be identified through the following ways:

- (a) Local Plan designation
- (b) ongoing asset realisation work undertaken by the Corporate Manager Governance Assets and Public Spaces and the Strategic Assets Manager
- (c) Groups declaring specific sites as being surplus to requirements or under used, e.g. sites suffering from antisocial behaviour
- (d) identifying previously unidentified surplus land from AIMS or Land Registry searches
- (e) approaches by third parties including unsolicited approaches
- (f) the identification of opportunities to generate income for the Council, e.g. by releasing existing restrictions, easements, covenants, etc of benefit to the Council on land previously disposed of by the Council
- (g) as enabling development to facilitate wider planning and/or corporate objectives

4.2 Speculative development enquiries received from third parties such as commercial developers, occupiers and adjoining landowners will be dealt with in the first instance by the Strategic Assets Manager with cross-organisational involvement as appropriate.

4.3 Where an asset is generating an income, a Cost/Benefit analysis will be carried out, in consultation with the Corporate Financial Advisor or Section 151 Officer, to establish whether it is in the Council's best interests to dispose of the site.

- 4.4 Internal cross-functional dialogue should be initiated to assess whether the Council would wish to specify particular development objectives to be implemented by the purchaser (possibly within a development brief) as part of the disposal process

### **Site Investigations**

- 5.1 Once a potential site has been identified, the Strategic Assets Manager will consult with the Statutory Authorities, as well as Legal Services, Planning Services and other necessary Groups, to establish whether there is any development constraint or other constraint on the site, e.g. restrictive covenants and requirements to repay grants.
- 5.2 Ground investigation works, and desk studies into previous land use history, will also be carried out where appropriate (to the extent where potential purchasers will not be undertaking these themselves).

### **Marketing Strategy**

- 7.1 Where appropriate, the Corporate Manager, Governance Assets and Public Spaces and the Strategic Assets Manager will recommend a marketing strategy, either in-house or through appointed agents, for acceptance by the Corporate Asset Management Group. All staff costs, legal costs, marketing costs, consultants costs etc. associated with any potential disposal of an asset will be offset against the Capital Receipt.
- 7.2 A list of potential sites will be developed and updated on an annual basis
- 7.3 The Council will require the purchaser to pay its Legal and Surveyor's costs incurred in the transaction
- 7.4 Any for sale details prepared by the Council as an aid to marketing any land or property will be prepared in accordance with Consumer protection legislation.

### **Timing**

- 8.1 The timing of any marketing/disposals will be considered against the following:
- The background of the Council's budgetary requirements
  - The current state of the property market.
- 8.2 Before recommending that a disposal is to proceed, the following factors are to be taken into consideration:
- Has Cabinet, Corporate Management Team or the Corporate Asset Management Group advised of an immediate need to raise capital receipts?
  - Is the proposed disposal through a competitive process?
  - Potential for the site value to increase in the future.

- Regional Planning Guidance and the Local Plan – this will influence decisions on the disposal (and acquisition) of land, as well as the future use of individual sites.

## Valuations

- 9.1 The valuation of sites will be undertaken by an accredited valuer under the RICS Valuation Scheme. Where a disposal is in respect of a major or complex site, additional independent valuation advice may also be sought. Independent advice is to provide a safeguard for the propriety of the Council's transaction, particularly if a situation arises where there has not been an open, competitive process - for example transacting with a special purchaser. The advice may include assistance with negotiations with the prospective purchaser.
- 9.2 Prior to proceeding with any building/site marketing or disposal, an assessment shall be made of whether or not the Council should obtain either outline or detailed planning permission.

## Method of Disposal

- 10.1 The Corporate Manager, Governance Assets and Public Spaces, in consultation with the valuer will recommend a method of disposal e.g. Auction, Private Treaty etc., for acceptance by the Council's Corporate Asset Management Group.
- 10.2 Unless a "special purchaser" has been identified i.e. one who is prepared to pay a premium for the site (over and above market value), all potential purchasers are to be given an opportunity to tender/submit an offer, according to the method of disposal recommended.
- 10.3 Where appropriate, the Council will give due consideration as to whether it will wish to dispose of a freehold interest in a building/site or alternatively a long lease whereby it may be able to retain long-term controls or potential income.
- 10.4 Where the disposal is to be by way of a long lease, the Corporate Financial Advisor will be consulted to assess the implications regarding VAT, Capital Controls and Treasury Management.
- 10.5 The Council will usually use one of five means to dispose of land. Further guidance upon when it will be appropriate to use any particular means of disposal is contained in Annex 1. The means of disposal are:
- **Private treaty** – a sale of land negotiated with one or a small number of purchasers. The land may or may not have been marketed as available for sale. A binding legal agreement is created on 'exchange of contracts' between the Council and the purchaser.
  - **Public Auction** – a sale of land by open auction available to anyone. The sale will be publicly advertised in advance. The auctioneer creates a binding legal agreement upon the acceptance of a bid.
  - **Formal Tender** – a sale of land by a process of public advertisement and

submission of tenders by a given date in accordance with a strict procedure. The Council creates a binding legal agreement upon the acceptance of a tender.

- **Exchange of Land** – a transaction involving the exchange of Council owned land with another land owner. The land acquired by the Council will meet at least one of its corporate objectives and will be at least ‘equal’ to the land exchanged.
- **Informal Negotiated Tender** – a sale of land after a public advertisement that requests informal offers or bids that meet a given specification of set of objectives. The Council may then negotiate further or more detailed terms with one or more individuals submitting the most advantageous bid or bids. A binding legal agreement is not created until the exchange of contracts between the authority and the chosen bidder.

## Approval Process

11.1.1 The final approval of the disposal of the asset depends on the market value given by the valuer.

Value	Approval
Assets with a lease value of up to £25,000 per annum.	CAMG.
Assets with a sale value of up to £100,000.	CAMG
All other assets	Cabinet

## CAMG/Cabinet Approval

12.1 The Corporate Manager, Governance Assets and Public Spaces (in conjunction with any other relevant Corporate Manager) and the Strategic Assets Manager will prepare a report for the Corporate Asset Management Group or Cabinet as necessary. The report will recommend the most appropriate method for marketing and disposing of the property.

## Negotiations

13.1 The capital receipt from any disposal is to be maximised unless there are overriding factors identified in the Corporate Plan that take precedence over the receipt of capital.

13.2 Where it is considered that a site should be disposed of at a price below open market value, the matter is to be reported to the Corporate Asset Management Group or Cabinet for approval, prior to the disposal. A disposal of land at a price below open market value may require the consent of the Secretary of State under the provisions of the Local Government Act 1972.

- 13.3 A timescale for the development of any land will be agreed with the prospective purchaser. If appropriate the purchaser will enter into a conditional contract or Development Agreement that sets out the required development obligations. If the land is not developed in the agreed timescale then the Council should have the opportunity to either terminate the contract or Development Agreement or, if a disposal has occurred, to repurchase the land at the original sale price or the current market value whichever is the lower. This is to prevent purchasers 'land banking' and benefiting from any future increases in land values.

### **Money Laundering**

- 14.1 All transactions should be carried out in accordance with the Council's Anti-Money Laundering Policy.
- 14.2 All cash transactions must be within the limits set out in the Anti-Money Laundering Policy.
- 14.3 Legal Services must make checks for all purchasers and ensure that purchasers' solicitors have an up-to-date Anti-Money Laundering Policy and that they are registered with the Law Society.

### **Instructions**

- 15.1 Once a potential purchaser has been identified and all the terms of the disposal have been agreed (or earlier if appropriate), Legal Services will be instructed to prepare the relevant legal documentation.

### **Completion**

- 16.1 Once the disposal has been completed, Legal Services will advise the Corporate Manager, Governance Assets and Public Spaces, Corporate Financial Advisor, relevant Members and such others as are appropriate.
- 16.2 Any local residents who were consulted or had sent correspondence in will receive letters informing them of the outcome of the disposal.

## **METHOD OF ACQUISITION OF LAND AND PROPERTY**

### **Introduction**

17.1 This part of the strategy sets out, in sequence, the procedure to be adopted in connection with the acquisition of land and property.

### **Reasons for the acquisition of Land or Property**

18.1 The Council will proactively consider the benefits of acquiring land or property, if this will help providing innovative and flexible solutions for overarching corporate priorities. Acquisitions may be considered for, amongst others, one or more of the following reasons:

- its contribution towards the provision of the Council's services and delivery of corporate aims
- economic development
- strategic acquisition for regeneration or redevelopment purposes
- it will provide a financial investment
- revenue income generation from well secured investments

"Well secured" investments are those where income is as certain as possible (ie, voids are expected to be low) and which are:-

- in established locations, where demand is (and is likely to remain) strong
- used for commercial purposes that will continue to be attractive
- expected to deliver strong rental growth
- subject to long, risk free, leases
- occupied by financially solid, class A+, companies
- made up of well constructed and specified buildings
- relatively liquid (ie, easy to sell in normal market conditions)

### **Market Research**

19.1 Once a need to acquire property has been identified, market research will be carried out by the relevant Corporate Manager, in consultation with the Corporate Manager, Governance Assets and Public Spaces and the Strategic Assets Manager, to establish whether suitable land or property is available on the market to fulfil this need.

19.2 Criteria against which any decisions are made in respect of an acquisition will include, where appropriate:

- price
- condition of property
- planning policy
- development constraints
- availability (in terms of timing)

- nature of tenure being offered (freehold or leasehold)
- occupational tenancies/vacant possession
- locational advantages (where a strategic acquisition is under consideration)
- return on investment (where a revenue generating asset is being considered)

19.3 Where a number of potentially suitable properties exist in the marketplace, robust comparisons will be made to establish which is the most suitable for the Council's needs.

## **Financial Appraisal**

20.1 When a suitable property has been identified, a financial/feasibility appraisal will be carried out to establish the financial/budgetary implications of acquiring the property at the quoted asking price. The advice of the Corporate Financial Advisor will be sought regarding the financing of the acquisition and current rates of interest on capital invested, to enable the opportunity cost of the acquisition to be fully assessed. The Corporate Financial Advisor will undertake a financial appraisal taking into account the following matters, where appropriate:

- the capital cost of acquisition
- any revenue, or potential revenue, generated from the property, both short and long term
- availability of external funding sources
- internal resourcing required
- development procurement options including joint ventures
- risk assessment
- the cost, in Asset Management terms, of owning the property, including:
  - immediate maintenance/refurbishment requirements
  - demolition costs, if appropriate
  - ongoing maintenance/life cycle costings
  - national nondomestic rates including empty rates liability
  - insurance
  - the overall effect of the expenditure on the Council's budgetary position.

## **Valuation**

21.1 Valuation advice will be provided by a suitably qualified surveyor.

21.2 Where an acquisition is in respect of a major or complex site, additional independent valuation advice may also be sought. Independent advice is to provide a safeguard for the propriety of the Council's transaction. The advice may include assistance with negotiations with the vendor.

21.3 Where independent advice suggests that the true Open Market Value of the property is below the asking price and there are overriding factors which justify the purchase, a report shall be prepared for Cabinet by the relevant Corporate Manager, in consultation with the Corporate Manager, Governance Assets and Public Spaces, seeking approval to continue with the proposed acquisition.

21.4 Where the acquisition is to be by way of a long lease, the Corporate Financial

Advisor will be specifically consulted to assess the implications regarding VAT, Capital Controls and Treasury Management.

## **Negotiation**

- 22.1 Following preliminary investigations and the possibility of an acquisition has been established, the relevant Corporate Manager, in consultation with the Corporate Manager Governance Assets and Public Spaces will prepare a report for the Cabinet to obtain agreement in principle to proceed, identifying a budget for the acquisition. If approval to proceed is given by the Cabinet negotiations will be commenced with the vendor by the Corporate Manager, Governance Assets and Public Spaces. Where the sale is by auction or tender, bids will be formulated as appropriate

## **Cabinet Approval**

- 23.1 Any offer to the vendor will be made “*subject to contract, Cabinet approval and, where appropriate, survey*” and a report will be prepared for the next Cabinet, by the relevant Corporate Manager in consultation with the Corporate Manager, Governance Assets and Public Spaces, recommending acceptance of the acquisition.

## **Instructions**

- 24.1 Once Cabinet approval has been received, and any surveys satisfactorily carried out (or earlier if appropriate), Legal Services will be instructed to complete the documentation associated with the acquisition.

## **Completion**

- 25.1 Once the disposal has been completed, Legal Services will advise the relevant Corporate Manager, the Corporate Manager Governance Assets and Public Spaces, the Corporate Financial Advisor, relevant Members and such others as are appropriate.

## **Acquisition of Land for Strategic Acquisition for Future Development in line with Council priorities and Objectives**

- 27.1 Land or property may be required for the purpose of future strategic development in line with Council priorities and objectives and in line with the scheme of delegation, subject to the following criteria:-
- a) An option appraisal has been carried and reported to Cabinet, the result of which identifies the land as suitable for current or future strategic development in line with Council priorities and objectives.
  - b) The on-going revenue costs are identified as part of the review and contained within an approved budget which has been confirmed by the Corporate Finance Officer and/or appropriate budget is approved by the Cabinet, in accordance with the Financial Rules.
  - c) VAT has been considered and the Corporate Finance Officer has been consulted on the implications on VAT and that these are included in the option appraisal.

## **Money Laundering**

- 28.1 All transactions should be carried out in accordance with the Council’s Anti-Money Laundering Policy.
- 28.2 All cash transactions must be within the limits set out in the Anti-Money Laundering Policy.

28.3 Legal Services must make checks for all vendors and ensure that vendors' solicitors have an up-to-date Anti-Money Laundering Policy and that they are registered with the Law Society.

### **Internal and External Audit**

29.1 Audit trails of all acquisitions will need to be maintained and accessible by South West Audit partnership and External Audit to verify actions/values and how the authority made the decision to acquire/dispose. Any appointment of a third party consultant must reserve the right of access to their records in relation to the transaction.

## ANNEX 1

### DESCRIPTION OF LAND DISPOSALS

#### Disposal by Private Treaty

- 1.1 A disposal by Private Treaty may take place after a period during which the land is put on the market including advertising and generally making known that it is available for sale. In this case, the Council will be able to consider the highest bid as representing the best consideration that can be reasonably obtained.
- 1.2 If land is to be sold by Private Treaty without being marketed, then the reasons justifying a private sale must be recorded in writing. In some circumstances the Council may seek an additional independent valuation to verify that 'best consideration' is being obtained in the current market. Negotiations are to be fully documented.

A private sale without the land being marketed may be justified where:

- (a) the land to be disposed of is relatively small in size and an adjoining or closely located landowner is the only potential or likely purchaser.
  - (b) the nature of the Council's land ownership and that of the surrounding land ownership is such that the land must be sold to adjoining or surrounding landowners if best consideration is to be obtained.
  - (c) the Council's land is part of a larger area of land that is proposed for development, redevelopment or regeneration where the nature and complexity of the proposed development of the overall site is such that the Council's corporate objectives and best consideration can only be achieved by a sale to a purchaser with an existing interest in land in the area.
- 1.3 A legally binding agreement will not be reached until either contracts for the lease or sale of land are exchanged or a development agreement is signed.
  - 1.4 Where a number of parties have expressed interest it may be appropriate to invite "best and final offers". Where it is used, all of the parties should be invited to submit their "best bid" within a certain timeframe (subject to contract). This procedure may carry risks in that some parties may not wish to proceed on this basis and withdraw.

#### Disposal by Public Auction

- 2.1 Sale by public auction may be appropriate where there is no obvious potential purchaser and where speed and the best price can be obtained by auction.
- 2.2 The authority from the Council's Cabinet must record in writing
  - (a) the reasons justifying a sale by public auction;
  - (b) the reserve price, if any, for the auction;
  - (c) the authority for a Council officer to attend the auction and to act on behalf of

the Council on the sale.

- 2.3 The contract for sale or lease must be ready for exchange at the auction.
- 2.4 A binding contract will be made on the acceptance of the highest bid providing it has reached the reserve price. Contracts for the sale or lease will immediately be signed on behalf of the Council and exchanged with the purchaser.

### **Disposal by Formal Tender**

- 3.1 A sale of land by formal tender may be appropriate where the land ownership is not complex and the Council is seeking obligations to be placed on the successful tenderer which are clear and capable of specification in advance. For example; the disposal of land to a developer with an obligation to build industrial units for lease, or the conservation of a listed building. In such instances, a process of formal tender may be appropriate in gaining best consideration.
- 3.2 Formal tenders will not be appropriate where the land ownership position is complex or the development proposals for the land are insufficiently identified or otherwise incapable of detailed specification at the pretender stage.
- 3.3 The reasons justifying a sale by formal tender must be recorded in the Cabinet report. The Council's rules for tender offers contained in the Contract Procedure Rules will be followed.
- 3.4 The nature of the formal tender process is that a legally binding relationship is formed when the Council accepts a tender in writing. It is essential therefore, that every aspect of the disposal is specified in the tender documents. The tender documents should include a contract for sale or lease which should be completed with the tenderer's details, the tender price and be signed by the tenderer. It will be released unconditionally to the Council on submission of the tender.
- 3.5 Sale of land by formal tender will require a detailed specification to be drawn up. This will specify the land to be sold, any requirements to be met by the tenderer and any obligations that must be met.
- 3.6 The Council will place a public advertisement seeking expressions of interest and publicise the selection criteria by which it will assess tenders. Those individuals selected will then be invited to submit their tender bids.

### **Disposal by Exchange of Land**

- 4.1 Disposal by exchange of land will be appropriate when it is advantageous to the Council and other parties to exchange land in their ownerships and will achieve best consideration for the Authority.
- 4.2 A binding legal agreement will be created when a contract is exchanged for the exchange.
- 4.3 The exchange will usually be equal in value. However, an inequality in land value may be compensated for by other means where appropriate. For example, where

the Council in exchange for a larger piece of land receives a smaller piece of land but the recipient of the larger plot agrees to build industrial units on the Council's smaller area to equalise the consideration. In such circumstances the Council may seek an independent valuation to verify that 'best consideration' will be obtained.

### **Disposal by Informal / Negotiated Tender**

- 5.1 A disposal by informal / negotiated tender differs from a formal tender in that neither the Council nor the successful bidder is legally obliged to enter into a contract for the disposal of the land. The informal / negotiated tender process allows the Council to identify one preferred bidder with whom it may then negotiate further detailed terms or proposals for the development of the land concerned.
- 5.2 The Council uses a public advertisement to request informal development proposals for land that meet a given specification. This process is particularly useful for large or complex development or regeneration sites requiring development and where the proposals may need to be developed in cooperation with the preferred bidder to meet the Council's corporate objectives and to achieve the best consideration that can be reasonably obtained.
- 5.3 The Council's rules for tender offers contained in the Contract Procedure Rules will be followed in respect of the receipt of tenders. Any exceptions to that process must be authorised and recorded in accordance with these Rules.
- 5.4 A binding legal agreement is not created until the exchange of contracts for sale or lease or the signing of a development agreement.

### **Exceptions**

- 6.1 Other methods of disposal may be used where circumstances warrant them.

### **Sale Price**

- 7.1 It will be the responsibility of the Council to ensure that the building / site is properly marketed to maximise price competition and obtain the best price obtainable in the market and if necessary that independent professional advice is taken on its value. The price may be lower than expectations due to the current state of the market but that will still constitute a market price.
- 7.2 There may be other benefits to the Council in a disposal including the enhancement of its other assets; the opportunity to deliver Council objectives including Local Plan policies; promoting economic benefits; or the disposal of a liability. Any such factors should be recorded and evaluated.
- 7.3 In considering what amounts to 'monetary value' in terms of best consideration to be obtained, the creation of jobs or desirable social outcomes, will be considered by the Council as part of its general powers of wellbeing under the Local Government Act 2000
- 7.4 Where there is a prospect of future planning status or development generating

additional site value but where a valuation cannot define this “hope value” at the time of sale, clawback conditions should be considered in the terms of the sale. Any clawback conditions should be listed in the Asset Register.

- 7.5 A party such as a tenant may be able to offer a greater amount for a property due to the release of “marriage value”. Where there is a disposal of a property with an existing tenant, the tenant should be approached as a potential purchaser. An appropriate share of marriage value should form part of any negotiations where appropriate.

### **Late Bids and Other Considerations**

- 8.1 Guidance from the Local Government Ombudsman recognises the problem caused to local authorities by ‘late bids’. The Guidance states that difficulties are less likely if Councils ensure that exchange of contracts take place as quickly as possible after the decision to sell (or lease) is made. It suggests that local authorities should be allowed to sell at an agreed price within a reasonable period of reaching a ‘subject to contract’ agreement.
- 8.2 In the context of the methods of land disposal dealt with in this document, a late bid may occur:
- (a) in the case of a private sale, after a sale or lease has been agreed, but before exchange of contracts
  - (b) in the case of a public auction, after the auction has been closed, but the reserved price not having been met.
  - (c) in the case of a formal tender, after the closing date for tenders, but before selection of the successful tender.
  - (d) in the case of an informal or negotiated tender, after receipt of bids, but before exchange of contracts or signing of a development agreement.
  - (e) in the case of disposal by exchange after, a sale or lease has been agreed, but before exchange of contracts.
- 8.3 Each ‘late bid’ must be considered in the context of the individual circumstances at the time. The Council’s approach to ‘late bids’ will vary depending upon the method of land disposal used. In each case, its general overriding duty will be to obtain best consideration that it can reasonably obtain. The Council’s approach to late bids is as follows:
- (a) The Council discourages the submission of late bids in all cases when it is disposing of land. It will attempt to minimise problems by aiming for early exchange of contracts.
  - (b) Where land is being disposed of by way of formal tender, bids received after the deadline for tenders, will not be considered.
  - (c) Late bids cannot be considered where land is being disposed of by public auction after a successful bid has been accepted.
  - (d) Except as provided herein, until the Council has entered a legally binding contract or agreement with another person it will consider late bids unless there are good commercial reasons for not doing so. This should be

explained to any purchaser when a disposal of land by private sale or negotiated/informal tender is agreed.

- (e) Consideration of a late bid does not mean that it will necessarily be accepted even if it is the 'highest' bid. The Council will take into account the likelihood of the late bid proceeding to completion in a timely manner and the possibility of late bids used as a spoiling or delaying tactic.
- (f) Subject to the above, the Council may, in appropriate circumstances, as both the late bidder and the person to whom the land was previously to have been sold, invite both parties to submit their last and final bids in a sealed envelope by a set deadline.
- (g) A decision on whether to accept a late bid for a private sale, informal tender or by exchange are to be made either by the Executive or delegated powers.

8.4 A last minute bid may be rejected for sound commercial reasons. For example, if there is no real certainty of it leading speedily to a contract or is suspected as a spoiling bid.