Council Report
Cabinet and Commissioner’s Decision Making Meeting – 11 September 2017

Title
Adoption of Land Adjacent Sales Policy and Procedures

Is this a Key Decision and has it been included on the Forward Plan?
Yes

Director Approving Submission of the Report
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Ward(s) Affected
All Wards

Executive Summary
The purpose of this report is to seek approval for the adoption and implementation of a new policy and procedure for dealing with enquiries to purchase small plots of land adjacent to the enquirer's property.

Recommendations

1. That the proposals contained in the report considering the adoption of new policy and procedures for dealing with land adjacent sales be agreed.

2. That the Assistant Director of Planning, Regeneration and Transport be authorised under delegated powers to approve qualifying disposals and that the Assistant Director of Legal Services be authorised to complete the necessary legal documentation.

3. That a minimum value threshold of £2,000 plus fees be set for all disposals that arise through applications to purchase.

4. That an administration charge of £250 be payable at the point of application which will be refunded if the application proceeds to completion.
5. That any applications to purchase areas of land which are dedicated as public open space are not part of the delegated authority or considered as part of the policy.

**List of Appendices Included**
Appendix 1 – Procedure for dealing with small land sales
Appendix 2 – Land Application Form

**Background Papers**
Nil

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**
No

**Council Approval Required**
No

**Exempt from the Press and Public**
No
Adoption of Land Adjacent Sales Policy and Procedures

1. Recommendations

1.1 That the proposals contained in the report considering the adoption of new policy and procedures for dealing with land adjacent sales be agreed.

1.2 That the Assistant Director of Planning, Regeneration and Transport be authorised under delegated powers to approve qualifying disposals and that the Assistant Director of Legal Services be authorised to complete the necessary legal documentation.

1.3 That a minimum value threshold of £2,000 plus fees be set for all disposals that arise through applications to purchase.

1.4 That an administration charge of £250 be payable at the point of application which will be refunded if the application proceeds to completion.

1.5 That any applications to purchase areas of land which are dedicated as public open space are not part of the delegated authority or considered as part of the policy.

2. Background

2.1 Each year the Council receives a number of applications to purchase or rent various pieces of Council owned land. During the period March 2015 to March 2016, 91 enquiries were received of which 65 enquiries were closed or rejected. Only 11 applications progressed to completion with the remaining 15 still on going.

2.2 A large proportion of these applications come from residential owner occupiers and relate to pieces of open space or highway landscaping adjacent to their properties. However some enquiries do come from builders or commercial operations interested in buying plots of vacant land for house building/development purposes.

2.3 Under the current procedures when an application is received consultations are initially carried out with the Administering Service of the land along with the Council's Planning and Legal Department. These consultations are necessary to establish whether the land is surplus to the requirements of the Administering Service, to ascertain the designation of the land and its potential for an 'in principle' change of use and also to determine if the land is viable for disposal from a legal perspective.

2.4 The majority of applications received never progress beyond the consultation stage, more often than not because they are unsuitable from a planning point of view and/or the Administering Service object to the disposal of a particular piece of land. Alternatively the enquirer decides not to progress their application once they are aware of the likely costs to purchase the land.
2.5 Having to deal with a number of applications which may result in relatively minor capital receipts, takes resources away from key Asset Management objectives and this ultimately impacts on other workloads and higher level cases.

2.6 In addition some applications relate to land that is dedicated public open space. Quite often this type of land has been transferred to the Council by a developer to use for this purpose and in most cases contains covenants restricting the use of the land to that of public open space. These particular cases involve additional work in the release of the restrictive covenant which potentially could require the payment of a premium for its removal. In the majority of cases such as these, the additional costs in terms of officer time and release premiums will make the disposal unviable and therefore should not be considered.

2.7 In some cases, however, if the applicant is an adjoining commercial venture or business, it may be worth considering the application because of the potential to receive a larger capital receipt, or the potential to create new employment within the Borough, by the expansion of a particular business operation. Consequently, these applications should be considered in the first instance rather than rejecting them outright.

2.8 It is proposed that the process should be streamlined to reduce abortive work and to create a balance between cost to the Council and income received, and that a minimum disposal value be set. It is recommended that all land values should be set at a minimum value threshold of £2,000 with other fees additional to this amount.

2.9 Enquiries under this threshold (or if the enquirer did not want to progress their application due to cost) would then be offered a garden tenancy (where suitable) and the rent for the plot would be assessed based on the size of the land. This would mitigate the possibility of applicants encroaching onto the land and potentially claiming adverse possession. This option also allows the applicants to use the land, but giving the potential to reapply to purchase in the future.

2.10 Appendix 1 (Procedures for dealing with small land sales) sets out the basic streamlined procedure for dealing with these applications and includes set tables to work out land values based on the size of the land and its proposed use.

2.11 Should any enquirers wish to proceed then an initial administration charge of £250 would be payable at the point of application, to cover the cost of obtaining planning and legal advice. If the application is successful then this payment will be deducted from any additional amount due in respect of Council’s fees. If the applicant fails to complete then this administration charge is to be retained.

2.12 It is suggested that the new policy, if approved, could be advertised on the Council’s website so anyone considering applying to purchase land could work out the likely costs of purchase (or renting) and then if they still wished to apply could do so by downloading and printing off an online application form to fill in. Appendix 2 identifies a draft of the proposed application form.
2.13 Having a set minimum disposal value from the outset should ensure that abortive work is not undertaken as a result of applicants withdrawing from the process once an offer is made to them in terms of the purchase price.

3. **Key Issues**

3.1 The existing method for dealing with enquiries is time consuming and with the number of applications not proceeding to completion, does not represent the best use of officer time.

3.2 The proposed new procedure would provide for a more streamlined service to customers/enquirers as well as freeing up more time for higher priority matters.

4. **Options considered and recommended proposal**

4.1 Option 1 – Cease all applications and dealings with land adjacent sales. This is not the recommended option as this could lead potential applicants to encroach on Council owned land and longer term seek adverse possession claims. This option could also lead to criticism of the Council, especially in cases where the land adjacent is not being maintained, with potential applicants seeking to purchase or rent land to ‘tidy’ it up.

4.2 Option 2 - Continue with the existing method of dealing with enquiries. This is not the recommended option as this is not an effective use of officer time and results in little financial benefit to the Council.

4.3 Option 3 – Adopt the proposals as set out within the report and as detailed within Appendix 1 (Procedures for dealing with small land sales) which is the recommended proposal which will result in a more streamlined process and will reduce the amount of abortive costs incurred by the Council where applications do not reach conclusion.

5. **Consultation**

5.1 Consultation has been carried out with internal colleagues and other Local Authorities in the Sheffield City Region to ascertain how they deal with similar land sale enquiries. The majority of these authorities are reconsidering their existing policies in light of changing priorities, and are considering a similar charging system. Barnsley MBC has an agreed policy with a minimum sale threshold of £5,000.

6. **Timetable and Accountability for Implementing this Decision**

6.1 It is proposed that once approved by Cabinet the new procedures will take effect, following the call in period.

7. **Financial and Procurement Implications**

7.1 It is anticipated that the new procedures will streamline the process focussing on the serious applications. Customers will be provided with an indicative value, so that any applicant can make an early decision on whether to rent or purchase the land dependent upon their financial circumstances.
7.2 The process will also have a positive impact on the Housing Revenue Account budget by a reduction in the value abortive fee costs levied on the HRA by the Estates Team.

7.3 For the period reviewed (March 2015 to March 2016) the total value of capital receipts obtained for the period was £31,769, but non recovered officer time expended was £18,500, giving a net receipt of £13,269.

7.4 There are no direct financial implications arising from these proposals. It is anticipated that the majority of general fund capital receipts will fall under the Council’s de-minimus level of £10,000 and as such will contribute to the Land and Property Bank. Capital receipts derived from HRA assets will contribute to the HRA. Alternatively, any income generated arising from the granting of garden tenancies will contribute towards existing income targets within the Investment Property budgets.

7.5 There are no procurement implications as a result of these proposals.

8. Legal Implications

8.1 There will be no legal implications in amending and updating the existing procedures to the one proposed.

9. Human Resources Implications

9.1 There are no Human Resource implications as a result of these proposals.

10. Implications for Children and Young People and Vulnerable Adults

    Not applicable with regards to this report.

11 Equalities and Human Rights Implications

    Not applicable with regards to this report.

12. Implications for Partners and Other Directorates

12.1 There will be implications for Housing as any enquiries relating to Housing or HRA land are initially dealt with by Housing and Estates Services. The proposed new process will have a positive impact as it will reduce the likelihood of abortive work.

13. Risks and Mitigation

13.1 None identified

14. Accountable Officer(s)

    Damien Wilson, Strategic Director, Regeneration and Environment
    Paul Woodcock, Assistant Director of Planning, Regeneration and Transport