

ARDS AND NORTH DOWN BOROUGH COUNCIL

LAND AND PROPERTY POLICY

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A. Acquisition of Land and Property

A requirement may arise whereby the Council needs to consider the acquisition of land in terms of 'site assembly' for a particular purpose i.e. to construct or provide new facilities or to enhance or develop existing facilities. Within this context it is recommended that the following principles be applied to the acquisition of new land or property:

- i. The need for the acquisition of new land or property should be identified by the relevant Directorate and should be linked to the Council's Asset Management Strategy. A Business Case* should be developed setting out how the requirement meets the Council's strategic objectives and priorities and any other relevant plans. It should include a cost – benefit analysis and feasibility study. The Business Case should be placed before the Council for approval, and approval should be sought to start identifying a suitable site. Where a site has already been identified, it should be detailed in the Business Case.
- ii. A site survey should be carried out on any potential site prior to acquisition to ensure that it is suitable for the Council's needs, and to identify any potential development constraints.
- iii. All land acquisitions, including final purchase price must be approved by Council.
- iv. Land acquisition will be supported by a suitably qualified legal services provider.
- v. Where negotiations on price are required, these should be conducted by the Council's Valuer.

* The business case should meet the requirements as set out in DOE guidance both in terms of content and value of the project. Furthermore it should be robust enough to support an economic appraisal that may be required to support borrowing should the need arise. It should also take into consideration the full capital project, have cognisance of due diligence and any feasibility study.

All potential acquisitions of land should consider current users and potential users and where adverse impact may be identified in relation to Section 75 dimensions each decision must be screened.

B. Disposal of Land and Property

The disposal of land and property falls into two distinct categories:

1. Land which has been declared surplus to requirements, and
2. Requests received from third parties to purchase Council land or property.

1. Land which has been declared surplus to requirement

Although it is recognised that the Land and Property Service Guidance on 'Disposal of Surplus Public Sector Property in Northern Ireland' (March 2013, or as updated.) does not specifically apply to Local Councils and that some of the steps detailed in the guidance are not required, it is deemed best practice to adhere to its guiding principles. The Council will therefore take a proactive approach across all Directorates to the identification of land and property which is surplus to requirements.

The Director of Finance & Performance (DFP) and the Asset Management Team (AMT) will be responsible for declaring land or property surplus to requirements having taken into account the principles of good asset management.

A site will be deemed to be surplus to the Council's requirements if either:

- i. It makes no contribution to the delivery of the Council's services.
- ii. It has no potential for future strategic or regeneration/redevelopment purposes.
- iii. An alternative site has been identified which would achieve a more cost effective service delivery.
- iv. Its disposal would help facilitate the achievement of the Council's Corporate Plan objectives.

A site will be deemed to be under-used if:

- i. The income being generated from the site is below that which could be achieved from:
 - An alternative use.
 - Disposing of the site and investing the income.
 - Intensifying the existing use.
- ii. Part of the site is vacant and is likely to remain vacant for the foreseeable future.

Once such land has been identified, the subsequent disposal of same should take into consideration the principles of the LPS Guidance, and should be done so in accordance with the following:

- i. All disposals must be approved by Council.
- ii. All pre-emption rights should be considered.
- iii. Some initial scoping should be done to ascertain if there are any burdens or barriers in terms of the titles or clauses to obstruct the sale.
- iv. Offers should be sought through public advertisement unless there is good reason not to do so.
- v. Planning input should be sought as to the +/- impact on the value of the site
- vi. Where negotiations on price are required, these should be conducted by the Council's Valuer and agent.
- vii. Advice should be sought from the Council's Valuer and agent on the most appropriate method of disposal.

2. Requests received from third parties to purchase Council land or property

Given the wide range and variety of requests received from third parties to purchase a piece of land or property from the Council, each request should be dealt with on a case by case basis. However the following should be considered in every request:

- i. S96 of the Local Government (NI) Act 1972 – Requirement to get best price or best rent.
- ii. Any pre-emption rights.
- iii. Has or should market testing take place?
- iv. Should the land or property be placed on the open market – is it effectively surplus?
- v. How is the land accessed? Can the applicant gain access to the land without going over Council property?
- vi. What is the land required for?
- vii. Is it a key or ransom strip? (Stokes v Cambridge).
- viii. Would disposing of the land have any impact on Council operations or services, including maintenance?
- ix. Would the disposal have a detrimental impact on the remaining land, where only a portion has been requested?
- x. Is there any relevant historical background to the land?
- xi. Should any restrictive covenants or special conditions be attached to the disposal?
- xii. Would the disposal have any impact (positive or negative) on any of the Section 75 groupings?
- xiii. Is the land to be disposed of a revenue generating asset e.g. car parks?

As with the disposal of surplus land:

- i. All disposals must be approved by Council.
- ii. Where negotiations on price are required, these should be conducted by the Council's Valuer and agent.
- iii. Advice should be sought from the Council's Valuer and agent on the most appropriate method of disposal.

- iv. Applicants will normally be required pay the Council's reasonable legal and other relevant fees.

All potential disposals of land should consider current users and potential users and where adverse impact may be identified in relation to Section 75 dimensions each decision must be screened.

C. Marketing of Land and Property

The Council will employ the services of an Estate Agent to market all land and property as required in accordance with the Council's procurement policy. The services of the Council's Valuer will be employed in the consideration of land and property disposal valuations and where applicable methods of disposal.

D. Use of Council Land and Property

The Council owns a significant portfolio of land and property assets ranging from parks and open spaces, to facilities and buildings, some of which were historically 'gifted' to or acquired by the Council's Predecessors in Title. Various policies will be relevant to use of most of this land and property, such as the Community Halls Pricing Policy, or Leisure Services Pricing Policy. However, where such policies do not cover formal requests for short term use by community organisations or groups of land or property, it is recommended that a number of 'principles' be applied:

All requests to use Council land or property should be submitted in writing at least six weeks prior to the date of use requested; exceptions to this will however be considered where a benefit to the Council area and population as a result of the use can be shown.

Where possible requests to use Council land or property should be submitted using the relevant form attached at Appendix A. This form will be available on the Council's website, and in alternative formats on request.

1. Requests to use Council land for minor events (excluding the use of revenue generating carparks)

- a) Delegated Authority will be given to relevant officers for the approval of routine uncontentious requests. An example of 'routine' use would be an orienteering event on Council park land, an organised run on a coastal path, or community event.
- b) There will be no charge to the user providing there is no commercial element to the agreed usage.
- c) Where the usage is primarily for a community or sporting event but there is incidental commercial use (e.g. chip vans or stalls) a fee based on the temporary street trading licence fee will be applied per trader. Payment must be made in advance.
- d) Where the event is solely commercial the Council's Valuer should determine a suitable fee. Payment must be made in advance.
- e) Organisers will be required to adhere to any or all of the following terms and conditions as are relevant, together with any other condition deemed necessary to be applied given the nature of the event:
 - i. Agree and limit numbers involved i.e. staggered starts for running events in public places.
 - ii. Provide a risk assessment and event management plan.

- iii. Display public notices for at least two weeks before an event to notify the public that said event is due to take place in the area. Signage to be agreed in advance with appropriate Council officer.
- iv. Public notices must be removed after the event within seven days.
- v. Provide appropriate welfare facilities at own cost.
- vi. Provide evidence of relevant insurances and fully indemnify Council against all risks associated with the use of land or property.
- vii. Make good any damage caused during the use.
- viii. Put in place protective measures for areas where important natural heritage is present.
- ix. Arrange for the collection and subsequent removal of all litter and other debris from the main event and adjacent areas during the event, as well as once the event has concluded, however, should the Council have to do any additional cleaning the costs will be recovered from the Organiser.
- x. Arrange for the prompt removal of any items used in connection with the usage e.g. NOMAD cage, staging or fencing (timescale for removal to be agreed with Council officers).
- xi. Agree to provide maps or any other document deemed appropriate by Council officers.
- xii. Put in place plans to limit any negative impact on the public using the land at the same time as the event.
- xiii. Provide evidence of permits/licences/registrations and approvals. Where relevant.
- xiv. Indemnify the Council against all claims which may result from the event or use of the area, and provide the Council with a copy of the relevant insurance policy.
- xv. Ensure that only the designated area, or areas specified by Council officers are used for the event.
- xvi. Ensure that adequate marshals are placed throughout the designated area so as members of the public are not endangered by the event.
- xvii. Ensure that where appropriate, the car parking facility at the location remains available for use by the general public.
- xviii. Where electric supplies are being used this must be agreed in advance with Council officers. Additional costs may apply depending on the services required.
- xix. Comply with any other relevant legislative provision.
- xx. No petrol generators are to be used.
- xxi. Where animals will be used as a part of any event, the Council's officers must be notified so that checks to ensure that welfare arrangements are in place can be undertaken.

2. Requests for 'Significant' or miscellaneous use

- a) All requests for more 'significant' use of Council land and property falling outside of its normal usage will be reported to the Council for approval e.g. use of a public area for a parade, use of Council land by a funfair, extensive filming on Council land or use of revenue generating car parks. This is not an exhaustive list.
- b) There will be no charge to the user providing there is no commercial element to the agreed usage.
- c) Where the usage is primarily for a community or sporting event but there is incidental commercial use (, e.g. chip vans or stalls) a fee based on the temporary street trading licence fee will be applied per trader. Payment must be made in advance.
- d) Where the event is solely commercial the Council's Valuer should determine a suitable fee. Payment must be made in advance.
- e) A bond of £500, or other value deemed appropriate by the Council may be applied where the usage has the potential to cause damage to the Council's property due to the nature of event, type of equipment being used, or number of people expected to attend the event.
- f) No car boot sales are to be held on Council land.
- g) No circuses with animals are to be held on Council land.
- h) Where appropriate Licence Agreements should be entered into for miscellaneous usage e.g. storing equipment on Council land or property. Legal advice should be obtained where necessary.
- i) The Council's Valuer will be asked to determine a suitable consideration for the usage, taking into consideration the type of use, length of use, any commercial profit being made by the user and nature of user ensuring 'best value' is achieved whilst taking into consideration potential added benefit to the delivery of relevant Council services as a result of the event e.g. community development or tourism benefits.
- j) As with routine use any or all of the terms and conditions listed on pages 7 and 8 may be applied to the usage.

3. Requests to use Council land as a major concert venue

The Council has a number of spaces including Ward Arras Park which could facilitate the holding of major concerts and events. When considering a request to hold such an event or concert the following principles must be adhered to:

- a) The event must enhance the reputation of the Borough, and deliver economic benefit to the Borough.
- b) The Council's Valuer will be asked to determine a suitable consideration for the usage, taking into consideration the type of use, length of use, any commercial profit being made by the user and nature of user ensuring 'best value' is achieved whilst taking into consideration potential added benefit to the delivery of relevant Council services as a result of the event e.g. community development or tourism benefits.
- c) All requests must obtain Council approval.
- d) Any act must be capable of being broadcast on mainstream media.
- e) A minimum lead time of six months to be introduced for any Major Concerts including the name of the Acts to allow for all licensing issues to be addressed (Subject to commercial confidentiality).
- f) Entertainment Licence to consider the inclusion of new licence conditions for outdoor events.
- g) Independent noise monitoring is to be undertaken to the Council's specification but at the organiser's expense.
- h) The maximum noise level must not exceed 85dB(A) (15 leq) at the nearest residential property.
- i) Additional penalty Clauses for non-compliance to be included in any contracts.
- j) Only one major music concert per year is to take place, with a maximum duration of two days (excluding build and dismantling).
- k) It is the Council's preference that concerts take place on a Friday or Saturday evening. Any applications for use on an alternative day or time will be considered only after it had been demonstrated that the Concert could not take place on the preferred days.
- l) Residents' concerns and requirements must be taken into consideration. This includes but is not limited to:

- i. Correspondence at an early stage with residents via letters, visits, email or telephone.
 - ii. Residents parking permits being issued.
 - iii. Additional fencing being erected.
 - iv. Deployment of security personnel and PSNI Officers.
 - v. Provision of two complimentary tickets per household per Concert within an agreed area.
- m) The organiser must ensure adequate resources can be provided by the Emergency Services and Translink. This is to be established before any Concert is approved.
- n) Transport provision is the responsibility of the organiser and should recognise the use of Private Hire transport in addition to Public transport and private car.
- o) The needs of other users of the open space must be considered, and any negative impact minimised as much as is possible.
- p) All legislative requirements must be adhered to. This includes but is not limited to:
- i. Noise levels, governed by Noise Council Guidelines.
 - ii. Environmental Health Approvals.
 - iii. Enforcement.
 - iv. Safety and Risk.
 - v. Entertainments Licence.
 - vi. Safeguarding children, young people and vulnerable adults.

As with routine use any or all of the terms and conditions listed on pages 7 and 8 may be applied to the usage and any associated contract between the Council and the organiser.

E. Rental of Council Land and Property

The Council has a significant number of properties and parcels of land that are rented to organisations through long standing Agreements (Leases, Licences, Conacre and Management Agreements).

All requests to rent or lease Council land or Property for a period exceeding seven days will be considered by the Council.

Legal advice will be sought on the most appropriate form of agreement to be entered into, taking into account all relevant factors including Business Tenancy Rights.

All renewals of existing agreements (in all formats) must be considered by the Council.

The Council's Valuer will be used to determine the consideration, except where the land has been marketed for rent via public auction.

All consideration must be approved by the Council.

The legacy arrangement from North Down Borough Council with regard to 50% rental abatement for exclusive sporting and recreational use by clubs of its land or property (to be implemented over a five year period from 2015 to 2019) will be adopted by the new Council and rolled out across relevant former Ards Borough Council land and properties.

F. Valuation Services

The Council will engage the services of a valuer to provide specific advice services including but not limited to advice on the acquisition and disposal of property by sale or lease including the negotiation of leases, rent reviews, lease renewals and surrenders; inspecting properties, supplying estimates on value, advising on disposal methods and procedure, and negotiating an agreed figure as appropriate in respect of:

- i. Acquisition or disposal by agreement of all interests in land and property.
- ii. Disposal of land or property in accordance with LPS Central Advisory Unit guidance on the “Disposal of Surplus Public Sector Property in Northern Ireland”.
- iii. Acquisition, or the grant of, licenses, rights of way, wayleaves or easements.



REQUEST TO USE COUNCIL LAND

About you

Name of Organisation	
Contact Name	
Contact address/email address	
Contact telephone number	

About your event

Please provide as much information as possible. Please attach any relevant documentation or additional pages.

Where would you like to use? (Please attach map or plan if appropriate)

What is the event/usage?

Date of event	
Start and end times (including set up and take down)	
How many people do you think will be attending?	
Have you received Council funding towards your event?	

Do you intend to use or have any of the following at your event?

Food vendors	Yes/No
Stalls selling other products	Yes/No
Live/recorded music or entertainment/PA	Yes/No
Generators	Yes/No

Inflatables/fairground equipment	Yes/No
Fireworks	Yes/No
Staging	Yes/No
Gas	Yes/No
Public toilets/portaloos	Yes/No
Alcohol	Yes/No
Animals	Yes/No

If the answer to any of the above is yes the Council will require further information, should permission be granted.

Have you applied or do you intend to apply for any statutory approvals or licences e.g. public entertainments licence? Yes/No

The Council will require the following for most events:

- Public Liability Insurance
- A risk assessment
- Event Management Plan
- List of any vendors/traders and evidence that they are registered with their local Council.

If these are already in place, please provide copies with your application. If they are not already in place, these will be required as a condition of use.

In accordance with the Council's policy, charges may be applied for the use of land. Further details on these charges can be obtained by contacting sarah.teer@ardsandnorthdown.gov.uk

Some Council services and equipment may be available to hire on a first come, first served basis. For more information on availability and prices please contact wtsreception@ardsandnorthdown.gov.uk for bins, litter pickers or cleansing services and peter.mccoy@ardsandnorthdown.gov.uk for barriers, chairs, tables or electricity supply.

I confirm that the information provided on this form is to the best of my knowledge accurate and correct.

Signed: _____ Date: _____

Position within Organisation: _____