

### Document Control

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# 1 Policy Statement

Ards and North Down Borough Council is required to comply with legal obligations and to follow best practice in the management of its extensive land and property portfolio.

This policy provides the framework which the Council will follow in relation to the following types of land and property transactions:

- Acquisition of land and property
- Disposal of land and property
- Vesting land
- Leases and Licences
- Requests to use land and property

## 2 Introduction

Ards and North Down Borough Council (the Council) owns an extensive portfolio of land and property ranging from parks, playing fields and other open spaces to facilities and buildings. These assets are a valuable resource that must be effectively managed for the benefit of the residents of the Borough and for the improvement or future development of the local area.

This Land and Property Policy sets out the principles and procedures that the Council will apply when managing these assets, progressing transactions, and dealing with any associated queries, requests, or other issues. The Policy is intended to complement other relevant Council policies. It is a revision of the original Land and Property Policy adopted by the Council in 2015. This updated version has been drafted to take account of learning gained since the Policy was first introduced as well as feedback from internal and external user groups. It seeks to provide a streamlined, fit for purpose, document which provides a standardised approach as to how land and property matters will be processed. Any individual or organisation dealing with the Council on a land matter, be they an Elected Member, Council officer, or an interested external party, will be able to clearly understand how the matter will be dealt with, with Council striving to treat everyone equally and fairly.

All land transactions should take cognisance of Council's obligations under Section 75 of the Northern Ireland Act 1998 which provides that:

(1) A public authority shall, in carrying out its functions relating to Northern Ireland, have due regard to the need to promote equality of opportunity- (a) between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; (b) between men and women generally; (c) between persons with a disability and persons without; and (d) between persons with dependants and persons without.

(2) Without prejudice to its obligations under subsection (1), a public authority shall in carrying out its functions relating to Northern Ireland have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

Section 75, Rural and Sustainability screening of decisions should be undertaken by the lead officer or their delegates at the earliest stage in the process.

There are several key strategic documents that are relevant to the Council's management of its land and property assets, including the following overarching plans:

- The Community Plan for Ards and North Down (the Big Plan), which sets out a long-term vision for Council, local organisations, and communities to work towards and which the Council sees as critical to the future success of the Borough.
- The Corporate Plan 2024-2028, and any subsequent Corporate Plan, which sets out the priorities and work the Council will do to improve the quality of life for everyone in Ards and North Down.
- The Roadmap to Sustainability 2021 – 2028 which formalises the Council's strategic commitment to becoming more sustainable. The main aspiration of the Roadmap is to enable the Borough to become an exemplar in sustainability. The balance of social, economic, and environmental impact must be considered in all land transactions, whether that be a disposal, an acquisition, or a consent for a third-party to use the land, and in relation to the latter, the Council will impose expectations on users of its land to meet standards of sustainability.
- The Sustainability and Climate Change Policy which gives a commitment that the Council will carry out its activities and functions in a manner which minimises any potentially negative climate change impacts, including through the implementation of the Environmental Management System.
- The Local Biodiversity Action Plan which sets out the priorities and actions required to ensure Council and local partners take steps to conserve and enhance priority habitats and species which are of international, national, regional, and local significance within the Borough.
- The Tree & Woodland Strategy which recognises the importance of trees on Council land, the many benefits they afford us and the critical role they can play in mitigating the effects of climate change. The strategy ensures the Council's limited resources are focused on positive planting programmes and managing tree care and risks on Council land.
- The Integrated Strategy for Tourism, Regeneration and Economic Development 2018 – 2030 which sets out a vision for the pursuit of prosperity in the Borough of Ards and North Down, the realisation of which may require land acquisition and/or management for the creation of opportunities such as jobs.
- Medium term financial plan including the capital investment plan and budgeting strategy.
- Service Unit Plans for areas such as Parks & Cemeteries, Leisure and Assets & Property set out workstreams that are directly linked to wider corporate strategies.

Workstreams being taken forward by the Council's Estate Development Programme Board will also influence the management of the land and property portfolio in the years ahead.

The Council's parks, open spaces and other leisure and community facilities play a vital role in boosting the physical and mental health of residents, as well as in supporting local businesses, facilitating events, and improving the economy. With appropriate use and management through the application of this Land and Property Policy, the Council can ensure these assets remain valuable now and for generations to come.

### **3 Roles and responsibilities**

The Director of Corporate Services and Head of Corporate Governance are responsible for reporting legal related land issues to Council in line with the Council's Scheme of Delegation.

The 'Compliance team' referred to throughout this policy comprises the Lands Manager who has lead responsibility in terms of progressing land issues, including disposals of Council-owned land and land acquisitions, and for maintaining accurate databases and records. The Lands Manager is assisted by Compliance Officers (Lands). Where this policy states that any action may be taken by the Lands Manager or the Compliance Team, it should be read as implied that the same action may also be taken by the Head of Corporate Governance or the Director of Corporate Services.

The Corporate Leadership Team (CLT), Heads of Service Team (HOST), Service Unit Managers (SUMs) are responsible for reviewing and responding to internal consultations on various land matters, and they should circulate these consultations to staff on their teams for input as applicable. The onus to review internal consultation requests and respond rests with each service area and a non-response will be understood by the Compliance team to be a nil return.

It is the responsibility of management in the relevant service unit which oversees the day to day running of each Council facility, be it a building or an open space, to ensure that the facility is kept secure and is properly maintained, and that any concerns are reported promptly to relevant Officers to investigate. Where a potential encroachment is identified, this should be reported to the Lands Manager.

## **4 Hired Services associated with land and property transactions**

### **4.1 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 for the purposes of valuation, supplying estimates on value, advising on disposal methods and procedure, and negotiating an agreed figure as appropriate in respect of:

- Acquisition or disposal of all interests in land and property.
- Disposal of land or property in accordance with LPS Central Advisory Unit guidance on the “Disposal of Surplus Public Sector Property in Northern Ireland”, October 2018 (and all future versions).
- Acquisition, or the grant of, licences, rights of way, wayleaves, or easements.

#### **4.1.1 Procedure**

All instructions to a Valuer should be carried out in accordance with the Service Level Agreement for Valuation Services in place at the relevant time. If for any reason it is not possible to secure the services of the relevant service provider, e.g., if there is a perceived Conflict of Interest, an alternative provider may be appointed in accordance with the Council’s procurement rules.

The Compliance team may instruct the Valuer in relation to proposed land transactions. The instructing officer will specify in each instruction the purpose of the request, whether an estimate of value or an agreed valuation is required, and will provide the following details as appropriate:

- The address of the property and a location map.
- Map of the land indicating the boundaries and the computed area.
- Details of the title under which the property is held, together with any encumbrances or benefits attached to the title e.g., wayleaves, easements, rights of way etc.
- A copy of any relevant leases, special terms or conditions of letting, acquisition, or disposal.
- The name and contact address or telephone number of the existing or proposed lessor, lessee, vendor, purchaser, or agent.
- The proposed use to which the land will be put and the current use.
- Copies of all pertinent correspondence relating to the instruction.
- Any additional information pertinent to the property which is known to the officer, and which may affect the value, such as contamination, radon, planning history/constraints/designations/zonings, access provision, service provision difficulties, key land issues, listed building status etc.
- Any additional information pertinent to the property which is known to the officer and may indicate that compensation is due to the Council, for example, if Council land has been knowingly encroached upon or damaged.

The service provider will undertake casework according to the priorities indicated by the Council officer.

Where feasible, instructions will be accepted in written form via email. Instructions will be accepted by telephone subject to confirmation in writing within five working days.

During negotiations, the service provider shall keep the Council officer informed of any circumstances which it considers are of material importance to these.

The service provider shall undertake all instructions in accordance with the Terms of Engagement together with any subsequent amendments and in accordance with the RICS Valuation Professional Standards, notifying Council as appropriate in cases where they have a conflict of interest.

The service provider shall provide advice on all surplus property disposals in accordance with the Central Advisory Unit guidance on the “Disposal of Surplus Public Sector Property in Northern Ireland.” The instructing Council officer should ask the service provider in all cases involving a disposal to provide advice on the best method of disposal and to confirm whether, in line with the guidance, the proposed valuation and proposed course of action represents ‘best value’.

The service provider will provide the Council officer with updates and a completed report in accordance with the timeframes set out in the Service Level Agreement.

## **4.2 Legal Services**

The Council appoints a Solicitor under a legal services contract to provide advice on Land and Property matters including, but not limited to, the following:

- The acquisition and disposal of land and property by the Council, including by agreement, marketing, vesting, adverse possession, development agreements, and/or long-term leases.
- The management of Council land and property and use by third parties, including boundary disputes, right to light, rights of occupation, water rights, adverse possession, trespass, encroachments, easements, wayleaves, and licences.
- Short and long-term leasing of Council land and property, including advice on Business Tenancies.
- The Council’s powers and duties in relation to public rights of way under the Access to the Countryside (NI) Order 1983.

### **4.2.1 Procedure**

The Compliance team can formally instruct the appointed Solicitor once a decision in relation to land has been taken and ratified by the Council. The instructions should be detailed in an email with the following information included:

- Background and summary of the request.
- The Council’s decision and any relevant terms and conditions.

- Whether the other party has instructed a Solicitor and confirmation as to whether the Council's Solicitor should correspond directly with the other party's Solicitor.
- An instruction to the Solicitor to proceed with the legal formalities.
- The Council minute should be attached to the email together with the report to Council with the recommendation and any supporting documentation.
- If available/relevant, any report or advice from Land and Property Services should also be attached.
- Map of the land
- Evidence of title to the land

Officers may also seek some initial/preliminary advice in relation to a lands query from the Council's Solicitor. For clarity, this is limited to advice only and cannot include instructions to take any action as regards disposing/acquiring land or granting/acquiring an interest in land without the approval of Council. All such advice will be charged in accordance with the legal services contract.

## **5 Council Owned Land**

### **5.1 Record Keeping**

The Compliance (Lands) team will maintain an electronic Title Deeds database which will contain a spreadsheet detailing all the title documents held by Council, along with digital scans of each title document.

Mapping of land owned or occupied by Council and its lessees will be reflected on the Council's Geographic Information System (GIS). The GIS will correlate with the information held on the Title Deeds Database and will provide links to the digital scans of relevant documents. It is the responsibility of the Compliance team to ensure that the GIS is accurate and kept updated in this regard.

The Lands Manager will work with the Finance Service (and all relevant services) to ensure that the Council's Fixed Asset Register is appropriately cross referenced to the Title Deeds database and that all land transactions and any associated activities are appropriately reflected.

### **5.2 Landweb searches**

The Compliance (Lands) team has access to the Land and Property Services' 'Landweb' portal through which officers can conduct searches to ascertain information in relation to certain types of land ownership, rights affecting land, mapping and the Statutory Charges Register. There is a charge for each search conducted, therefore these searches should be limited to direct Council business.

Payment for such searches will generally come from the Compliance (Lands) budget, however there may be some capital projects through which substantial search costs will be incurred, e.g., where land assembly/acquisitions required. In

those cases, the costs will be coded to the budget of the relevant project, with the agreement of the budget holder as to the payment of costs being sought in advance.

Requests are frequently received from members of the public or Elected Representatives in which advice is sought from Council Officers on the ownership of plots of land or property. If the land or property is Council owned, this will generally be known without the need for a Landweb search, and the requestor will be advised accordingly. If it is not Council owned, Landweb searches will not be conducted given the cost involved and the requestor will instead be provided with Land Registry contact details to enable them to make direct enquiries.

### **5.3 Encroachments**

An encroachment refers to any unauthorised use or occupation of Council-owned land. Such encroachments must be dealt with promptly to ensure that no right can be claimed or established by the person(s) committing the encroachment. Where any Council officer suspects there has been an encroachment on Council land, they should report this immediately to the Compliance (Lands) team. At a minimum, all Council land should be inspected at least once every 12 months to identify encroachments at an early stage – section 5.4 below refers.

Where an encroachment on Council land is confirmed, the Council will endeavour to have the encroachment removed. This will be done by an initial letter from the Compliance (Lands) team to the third-party instructing them to rectify the encroachment within 14 days and advising them that if they fail to do so the Council will seek legal advice. The Compliance (Lands) Team will also notify the Planning Department as the encroachment may also represent a breach of planning control. If the encroachment is not removed within the 14 days, the Compliance (Lands) team will refer the matter to the Council's Solicitor for advice on next steps. Where further legal action is recommended by the Solicitor, this will be reported to the Council for approval to proceed.

Often, those encroaching on Council land request to purchase the land. In such cases, the process set out in section 7 below concerning third-party requests to purchase Council land will be applied. It should be noted, however, that Council does not condone and wishes to discourage encroachments on its land, therefore the circumstances of the encroachment will be taken into account on a case-by-case basis when a decision is being reached on whether to agree to any disposal, lease, or licence, and the price to be paid.

### **5.4 Inspection of Council land**

At a minimum, all Council land should be inspected personally by officers within the relevant Service Unit who have knowledge of the land in question at least once every 24 months to identify encroachments at an early stage and to provide an evidence base should any future encroachments occur. A process is being developed for the proactive inspection of Council land for encroachments, which will include the creation of a baseline to show existing encroachments, and a record kept of all subsequent inspections. In the interim, if any officer becomes

aware of an actual or suspected encroachment, this should be reported to the Compliance (Lands) team as soon as possible.

## **5.5 General Considerations**

It is critical that those officers responsible for maintaining records of Council's fixed assets, updating the Council's balance sheets, and for ensuring all Council owned land and property is adequately managed, maintained and covered by insurance, are made aware of any acquisitions or disposals taking place, or any lease arrangements being agreed, even if in the short-term only. The following officers should therefore be notified at an early opportunity by the officer leading the transaction when any acquisition, disposal or lease of land or property is being considered:

- Director of Corporate Services
- Head of Corporate Governance
- Capital Accountant
- Head of Estates
- Risk Manager
- Lands Manager
- Any other relevant Head of Service

The above officers should also be notified when the matter is agreed by Council, and again when the legal formalities complete. The Council's mapping system will also be updated accordingly.

A Land and Property Services (LPS) CR3 form should be completed and submitted to LPS by the officer leading the transaction when any acquisition, disposal or lease of land or property completes. This is to enable LPS to assess whether the transaction has affected the rates liability and the CR3 form should clearly identify the party responsible for paying the rates.

An electronic file will be opened for each transaction and will include records of all instructions to Valuers and Solicitors, valuation reports, internal and external correspondence demonstrating the reasoning behind actions taken, Council minutes and any other relevant documents. The file will be available to internal and external auditors as required. Any appointment of a third-party consultant must reserve the right of access to their records in relation to the transaction. This will usually be dealt with by way of appropriate contract conditions within the Service Level Agreements with the relevant provider.

Any officers considering a project or dealing with a third party in relation to land and property should check with Compliance (Lands) at an early stage to ensure there is no legal restriction to considering a site for a particular purpose and to obtain guidance from Compliance (Lands).

## 6 Acquisition of Land and Property

### 6.1 Context

Councils are empowered by the Local Government Act (Northern Ireland) 1972, the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 2002 and the Local Government Act (Northern Ireland) 2014 to acquire land and property to facilitate functions for which they are responsible. An acquisition may be for the benefit of the inhabitants of the Council borough or for the purposes of the improvement, development or future development of the district, including for economic development purposes. Any decision to acquire land must be taken by Council and cannot be delegated to Officers.

### 6.2 Definition of Acquisition

An acquisition of land or property is considered for accounting purposes to be an outright acquisition if it consists of:

- A transfer of the freehold of the asset; or
- A transfer of the leasehold of the asset where control of the asset, including the transfer of risks and rewards, substantially passes to the Council.

The transfer can be by means of an exchange for consideration, a gift or donation, or it can involve a land swap. Acquisition of land, even if a gift, imposes responsibilities and financial implications upon Council; therefore, regardless of the method of transfer, the procedure at section 6.3 must be followed.

It is also possible to acquire an interest in land e.g., wayleave, easement, or reversionary lease.

### 6.3 Procedure for Acquisitions

The context in which Council seeks to acquire land or property is usually, but not exclusively, connected with the 'site assembly' of a particular project in which the land is required to facilitate the construction of new facilities or to enhance existing facilities. It may be that Council has proactively set out to identify the land it requires or that the opportunity presents itself through an approach made to Council by a landowner or alternatively if surplus land is advertised by Government Departments via the Central Advisory Unit.

Regardless of the circumstances, in all cases involving an acquisition of land or property, **the Asset Management Policy must be referred to and complied with**, in particular the principle set out in the 'Acquisition' section of that policy that "Managers should only acquire new assets that are required to allow Council to meet identifiable needs, in an economic, efficient and effective way, in order to achieve its stated outcomes."

Having identified a need to acquire the land or property the following steps shall be followed:

- i. A site inspection should be carried out on any potential site or property prior to acquisition to ensure that it is suitable for Council's needs, and to identify any potential development constraints. It will usually be the Director, Head of Service or Service Unit Manager (hereafter, the 'lead officer') of the service area responsible for the project for which the acquisition is needed, that will organise and attend the site inspection, along with any other relevant officers. An accurate map of the site or property should be produced based on and following the site or property survey.
- ii. If the proposed acquisition is stand-alone and not connected to a project or scheme that has already been agreed by Council, then prior to costs being incurred on valuation services and prior to a report being brought before Council, the proposal shall be circulated by email by the Compliance (Lands) team to CLT, HOST, SUMs and any other relevant officers. The results of this internal consultation will be collated and returned to the lead officer for consideration and a decision taken as to whether to continue to the next steps outlined below, or they may decide not to proceed any further with the proposal.
- iii. Where the acquisition has not already been approved as part of a Business Case for a project, a Business Case should be developed setting out how the proposed acquisition meets the Council's strategic objectives and priorities and any other relevant plans. The Business Case should follow the standard Council format, which is based on Department for Finance guidance. Furthermore, it should be robust enough to support an economic appraisal that may be required to support borrowing should the need arise. Refer to chapter 4 of the **Budgeting Policy**.
- iv. The proposed acquisition will be reported to the appropriate Committee dealing with lands transactions, in accordance with the Terms of Reference for Committees, for a decision. The report will outline the known title of the land or property, the need for the acquisition, any known rights, obligations, restrictions, or potential hindrances to the acquisition of the land or property, and it will attach any Business Case prepared as per point iii above if applicable. The Committee decision cannot be acted upon until it has been ratified by Council and the call-in period has expired.
- v. Unless the land / property, or interest in it, is being gifted to the Council, the Compliance (Lands) team will instruct the Council's Valuer to provide a valuation. The Valuer will not usually be instructed unless the Council has agreed in principle to the acquisition.
- vi. The Valuer will negotiate a purchase price and Heads of Terms with the vendor on a 'without prejudice and subject to Council approval' basis. The final purchase price and any Heads of Terms must be agreed by Council.
- vii. Where it is envisaged that there will be competitive bidding on land or property, in order to ensure that a bid is not made beyond the amount recommended by the appointed valuer whose professional indemnity insurance will already have been approved by Council, Council should pass a resolution as follows: "The Chief Executive or their nominated officer is hereby authorised to consult [name], the designated Valuer, on the market

value of the land or property at [location]. Having established the said market value, the Chief Executive (or their nominated officer) or the designated Valuer is hereby authorised to make an offer, Subject to Contract, up to the maximum determined in his/her consultation with the said Valuer. The Chief Executive or their nominated officer is required to obtain the advice in writing from the said Valuer and to consult the Valuer at all stages of the transaction and rely upon their professional judgment.”

- viii. When Council agrees to an acquisition, the matter should be referred to a suitably qualified legal services provider in accordance with section 4.2 of this policy.
- ix. As per section 5.5 of this policy, relevant officers must be kept informed when a decision to acquire land or property is being contemplated, when a decision to proceed with the acquisition has been made by Council, and when the transaction thereafter completes (or fails to complete and is halted).

## 6.4 Rectification of Title

- i. In some circumstances, the Council may be maintaining land to which it does not hold paper title. The Compliance (Lands) team should review the historical information with a view to determining whether a rectification of title should be sought i.e. where the Council has been in exclusive possession and control of the land for the relevant period of time being a minimum of 12 years (30 years if Crown Land) and whether the asset is required in accordance with the principles as set out in the Asset Management Policy.
- ii. The proposed rectification will be reported to the appropriate committee dealing with lands transactions.
- iii. Advice will then be sought from the Council's solicitor whether to proceed by way of an application to Land Registry for possessory title OR, where the landowner is known, to approach them directly with a view to seeking a transfer of title at a nominal value.

## 7 Disposal of Land and Property

### 7.1 Context

Councils are empowered by the Local Government Act (Northern Ireland) 1972 ('the 1972 Act'), the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 2002 and the Local Government Act (Northern Ireland) 2014 to dispose of its land and property. In disposing of land and property, Councils must abide by the requirement as set out in section 96 of the 1972 Act whereby all disposals must be for the best price or the best rent and on the best terms that can be reasonably obtained. Any disposals that are not at the best price or on the best terms must be approved by the Department for Communities (DfC) before they can proceed.

Section 45 (3) of the Interpretation Act (Northern Ireland) 1954 defines a disposal of dealing with land in a number of ways including selling it, leasing it, exchanging

it, surrender of leasehold interest, granting a licence or granting any easement, profit or right in respect of it.

This section deals with a disposal land in the context of a sale (including in some circumstances by way of a lease – see section 7.2 below) or the granting of an interest in land, e.g., a wayleave or easement, is regarded as a ‘disposal’ but, as outlined in section 7.5 below, the disposal of such interests is not necessarily subject to the same requirements of public advertisement etc. The Leasing and Licensing of Council land is dealt with in section 9 below.

## 7.2 Definition of a Disposal

For accounting purposes, a transaction is considered to be an outright disposal of land or property if it consists of:

- A transfer of the freehold of the asset; or
- A transfer of the leasehold of the asset where control of the asset, including the transfer of risks and rewards, substantially passes to the lessee.

The transfer will usually be by means of an exchange for consideration, or it may involve a land swap. While it may also be by means of a gift or donation, this would be rare as Council’s default position is to always secure best value for its land. In all circumstances where a disposal is being contemplated, the procedures set out in section 7.3.1 – 7.3.4 below should be followed.

## 7.3 Procedures for the disposal of Land and Property

The context in which Council is usually asked to consider selling land or property is that either it has proactively identified the site as being suitable for disposal or has received a request from a third-party wishing to acquire the site.

- **Proactive identification of land and property suitable for disposal (including options such as Development Brief)** Council will take a proactive approach across all Directorates to the identification of land and property which is surplus to requirements. The proactive identification of sites which may be surplus to requirements should generally be undertaken in a strategic manner through formalised groups with a relevant remit, such as the Estate Development Programme Board. The proactive identification of land suitable for disposal might also occur in the context of agreed Council projects, for example, the disposal might form part of a Development Agreement, or the project might involve a land swap or a Joint Venture with another partner.
- **Third-party Requests** - where land or property has not already been declared surplus to requirements or is not being considered through the

Estate Development Programme Board, third-party requests to acquire small parcels of land or property may be dealt with on a case-by-case basis by the Compliance (Lands) team. Due to the resource required to process such requests, often for relatively small monetary return, the Compliance (Lands) team will process any requests received at six monthly intervals in December and June each year. The Lands Manager has discretion to consider requests sooner than the next six-monthly review in exceptional circumstances.

### 7.3.1 General principles (applicable to all disposal cases i.e., both proactive identification and third-party requests)

In all cases where land or property is being considered for disposal, **the Asset Management Policy must be referred to and complied with**, and the following principles shall also apply:

- The Council will take cognisance of the guiding principles of the Land and Property Services' (LPS) Central Advisory Unit (CAU) 'Disposal of Surplus Public Sector Property in Northern Ireland' ("the CAU Guidance"). This document contains guidance on the disposal of public sector property to ensure that value for money is achieved, and high standards of propriety are maintained. The instructing Council officer should ask the Valuer in all cases involving a disposal to provide advice on the best method of disposal including with reference to the CAU Guidance and to confirm whether, the proposed valuation and course of action represent 'best value'.
- Where the transaction involves a land swap, each parcel of land involved in the transaction should be valued.
- Any negotiations on price should be undertaken by the Council's Valuer on behalf of Council.
- Unless advice has been received from Council's Valuer that best value can be achieved without going to the open market, which should be in special circumstances only (see section 7.3.4 below), the default position is that Council will publicly advertise any land or property deemed surplus to its requirements or which a third-party seeks to purchase. The marketing will be undertaken in accordance with section 7.4 below.
- The Council will endeavour to dispose of the entire interest in the land or property, including the freehold if such title is held by Council. However, there may be exceptional cases where it may be appropriate to sell a lesser interest than that held, for example, Council may wish to control the use of the land in order to protect the value or amenity of or access to other Council owned land in the vicinity, thus it may be more appropriate to sell a long leasehold interest. Professional advice from the Council's Valuer should be taken in cases where a sale of the entire interest is considered inappropriate.
- No disposal may take place unless the boundary, and in the case of a leasehold disposal, the term, has been agreed by Council. When such a decision is reached, the matter should be referred to a suitably qualified legal services provider in accordance with section 4.2 of this policy.
- As per section 5.5 of this policy, relevant officers must be kept informed when a decision to dispose of land or property is being contemplated, when a decision to proceed with the disposal has been made by Council, and when the transaction thereafter completes (or fails to complete and is halted). It is

particularly important to consult with the Finance Service when a decision to dispose of land or property is being contemplated in order to consider the VAT options. Unless there is a compelling reason not to do so, a decision on 'opting to tax' (applying VAT to a land or property sale) should be made and notified to HMRC in accordance with HMRC rules on making applications for opting to tax land and buildings. Applying an 'option to tax' to a significant land or property sale can reduce the risk of Council not being able to reclaim VAT on all expenditure and hence reduce costs.

- The final transfer Deed or Lease must be sealed by Council and countersigned by the Mayor and Chief Executive.

Any disposal of land or property at less than best value may only happen in **exceptional circumstances** and if Council is considering such action, legal advice must be sought at an early stage, and the transaction may only proceed if consent has been sought and obtained from the DfC. Where the transaction involves a land swap, if Council is disposing of land valued at a higher price than the land it is acquiring, this would fall into the category of a disposal at less than best value and as such legal advice and Departmental approval would also be required.

### **7.3.2 Preliminary due diligence (applicable to all disposal cases i.e., both proactive identification and third-party requests)**

The following due diligence shall be carried out in all cases where a disposal is being contemplated:

- i. Officers will undertake checks to ensure Council can evidence it has title to the land or property in question. These title checks should always be carried out by the Compliance (Lands) team.
- ii. A site survey will be carried out by the lead officer to ensure the boundary is intact and as expected; to establish the general condition of the land or property; and to produce an accurate map of the site.
- iii. The lead officers will gather the following information when considering whether the land or property would be suitable for disposal:
  - a. How the land or property is currently used by Council and the wider public.
  - b. Whether Council has plans, or is likely to have plans, to use or develop the land or property in the future, taking into consideration Council's commitments to a climate emergency and climate adaptation planning, and other associated plans such as the Tree and Woodland Strategy.
  - c. The development potential of the site (Planning Service input should be sought).
  - d. Where a request to acquire the land has been made by a third-party, how the third-party intends to use the land or property, the impact this would have on the wider community, in particular section 75 groupings, and whether the proposed use complements or is in contradiction of Council's ambitions to become a more sustainable Borough. This may assist with determining whether the granting of a leasehold interest with restrictive covenants would be more suitable than disposing of the freehold.

- e. Any relevant historical background to the land or property.
- f. How the land or property is accessed; and whether the purchaser/applicant can gain access to the land without crossing other Council property.
- g. Whether any rights of way or easements would need to be granted in conjunction with the disposal, and whether any restrictive covenants or special conditions would need to be put in place.
- h. Whether disposal would have an impact on operations or services, including maintenance, and the impact on any nearby Council land or property, particularly where only a portion of a wider plot of land has been requested.
- i. The financial impact of disposal if the land or property is income generating e.g., car parks or leisure facilities.
- j. Whether disposing of the land would create a ransom strip.
- k. Any legislative or other impediment affecting the disposal e.g., if the property has a sitting tenant or the land was previously acquired by virtue of compulsory purchase powers.
- l. Whether Council has previously considered disposing of the land or property in the past and if it decided not to, the reasons for that decision.
- m. Where appropriate, the views of any affected stakeholder groups or other agencies.

### **7.3.3 Procedure to be followed (applicable only to proactive identification of surplus land)**

If it is the case that a site is under consideration as being potentially surplus to requirements through the Estate Development Programme Board, the Board will consider the information gathered at 7.3.2 point iii above. The Board will then decide whether to declare the site surplus to requirements taking the following factors into account in relation to the land or property in question:

- Does it make a contribution to the delivery of Council's services?
- Does it have any potential for future strategic or regeneration/redevelopment purposes?
- Has an alternative site has been identified which would achieve a more cost-effective service delivery?
- Would its disposal help facilitate the achievement of Council's Corporate Plan objectives?
- Would it be more cost effective to dispose of the site and invest the income generated into other projects, facilities, or services?

If the Board has declared land or property as being surplus to requirements, this will be reported to Council, via the appropriate Committee, for consideration and agreement as to whether it should be disposed of and, if so, how. That decision should be informed by advice from the Council's Valuer as to achieving best value in the case and the best method of disposal.

#### **7.3.4 Procedure to be followed (applicable only to third-party requests to acquire land)**

If a third-party requests to acquire land or property that has not been through a process as outlined in section 7.3.3 above to consider whether it is surplus to requirements, this request will usually be processed by the Compliance (Lands) team. The following process will be followed:

- i. The Compliance (Lands) team will, at the outset, circulate the request via an internal consultation to seek the views of CLT, HOST, SUMs and any other relevant officers.
- ii. The Lands Manager will consider the information gathered as per 7.3.2 point iii above along with any feedback from the internal consultation and will determine whether the request should be:
  - a. Rejected (which is a decision that the Lands Manager may take without reference to Council);
  - b. Whether it should be reported directly to Council, via the appropriate Committee, for consideration; or
  - c. Whether it is of such significance, for example, due to its size or former use, or because it is an entire asset as opposed to a strip of land, that it ought to be referred to the Estate Development Programme Board for a determination that it is surplus to requirements as per 7.3.3 above.
- iii. Provided it has not been determined that the request should be rejected or referred to the Board, as per point ii above, the normal process will be that the request is reported to Council, via the appropriate Committee, for agreement in principle to proceed with the disposal and that it is only after this that Council's Valuer is instructed. This will avoid unnecessary costs being incurred should Council not wish to proceed at the outset.
- iv. The Compliance (Lands) team will thereafter instruct Council's Valuer to provide a valuation and advice, with the instruction to include the information detailed at section 4.1 above.
- v. The Compliance (Lands) team will specifically request that the Valuer provides advice in their report as to whether the land or property needs to be put on the open market in order to achieve best value. Where the Valuer is of the opinion that an open market disposal is not required, for example, because the land is landlocked or there is a special purchaser (e.g. an adjacent landowner or a third party who would be prepared to pay a value higher than the open market would attract), the valuation report should reflect the specific advantages and disadvantages of direct disposal to the parties involved rather than the market at large, and it should confirm whether best value will be achieved if the land or property is sold at the valuation amount without having first tested the market.
- vi. Once the Valuer's report is received, this should be provided to Council, via the appropriate Committee, in order that a final decision can be made as to how to proceed.
- vii. It will be a condition of the sale when a third-party request to acquire Council land or property has been made, and it is agreed to sell the land or property to that third-party without going to the open market, that the third-party will be responsible for paying the entire cost of Council's legal and valuation fees in addition to the land or property value. Any request to

deviate from this will be put to the Council for consideration and approval as part of the report.

#### **7.4 Marketing of Land and Property**

No land or property will be marketed until Council has received and considered a report from the Council's Valuer detailing the valuation and the recommended method of disposal and Council has agreed that the land or property should be sold.

Any alternative form of marketing, for example, by way of issuing a development brief, should be agreed by Council following advice from its professional advisers. Where applicable, Council will employ the services of an Estate Agent in accordance with any relevant Council procurement guidelines or policy in place at that time.

All marketing will take place in such a manner as to ensure that transparency and cross community coverage are achieved. In all cases, including where a Formal Tender has been recommended as the disposal method, advice will be sought from Council's professional advisers (Valuer, Solicitor or Estate Agent as applicable) as to the proper process to be followed in a particular case.

#### **7.5 Disposal of Interests in Land and Property**

Where a request is received from a third-party to acquire an interest in Council land or property, for example if they are seeking an easement, the request will be processed by the Compliance (Lands) team in accordance with the following procedure:

- i. Officers will undertake checks to ensure Council can evidence it has title to the land or property in question.
- ii. If required, a site survey will be carried out to establish the general condition of the land or property and/or to produce an accurate map of the site.
- iii. Officers will consider the following:
  - a. The impact the disposal of the interest would have on access and the use of the land or property by Council and/or the wider public.
  - b. The impact the disposal of the interest would have on the development potential of the site or property, including any potential future plans that Council may have for the land or property.
  - c. The reason that the third-party requires the easement and whether this reason has any adverse impact on the community, in particular Section 75 groupings, and whether it complements or is in contradiction to Council's ambitions to become a more sustainable Borough.
  - d. Any relevant historical background to the land or property that may preclude the disposal of the interest.
  - e. Whether any restrictive covenants or special conditions would need to be put in place.

- f. Whether the disposal of the interest would have an impact on operations or services and the impact on any nearby Council land or property.
  - g. Any legislative or other impediment affecting the disposal of the interest.
  - h. Whether Council has previously considered disposing of the interest and if it decided not to, the reasons for that decision.
- iv. The officers will circulate the request via an internal consultation to seek the views of CLT, HOST, SUMs and any other relevant officers.
- v. The Compliance (Lands) team will consider the factors outlined at point iii above along with any feedback from the internal consultation or direction from HOST and will determine whether the request should be rejected (which is a decision that officers may take without reference to Council), or whether it should go to Council for consideration.
- vi. Provided officers have not determined the request should be rejected as per point v above, the normal process will be that the request is reported to Council, via the appropriate Committee, for agreement in principle to proceed with the disposal and that it is only after this that Council's Valuer is instructed. This will avoid unnecessary costs being incurred should Council not wish to proceed at the outset.
- vii. Officers will thereafter instruct Council's Valuer to provide a valuation and advice, with the instruction to include the information detailed at section 4.1 above.
- viii. Once the Valuer's report is received, this should be provided to Council, via the appropriate Committee, in order that a final decision may be made as to how to proceed.
- ix. When it is agreed by Council to dispose of an interest in land or property, the party benefitting from the disposal should normally be responsible for paying the entire cost of Council's legal and valuation fees.

## **8 Vesting**

There are occasions when Council may need to acquire land, but it is not possible, or it is not practical, to secure the agreement of the landowner to the transaction. In such cases Council may apply to vest the land under compulsory purchase powers pursuant to the Local Government Act (Northern Ireland) 1972. The Act sets out a process that must be adhered to and any decision to vest land will only be taken by Council further to receiving legal advice on the applicability of the legislation and the statutory function to be exercised.

As vesting is deemed to be the last method by which to acquire land, a business case must also be provided to Council in line with section 6.3 above prior to any decision being taken. The business case should set out alternative methods of acquisition and detail why vesting is the only remaining option after all options have been exhausted.

Land and property in the ownership of Council may also be vested by other government departments. If any officer becomes aware that vesting is being proposed in relation to Council land, they should bring this promptly to the attention

of the Lands Manager, who will ensure the matter is reported to Council and legal advice sought.

## **9 Leasing and Licensing of Council Land and Property**

### **9.1 Context**

Council has several formal legal agreements in place, including Leases, Licences and Operating Agreements incorporating Licences, through which properties and parcels of land are used and occupied by third parties. Leases and Licences are two distinct legal instruments, with the former conferring on a Tenant an estate in land with exclusive possession and security of tenure, while the latter is merely a personal permission to enter and occupy land or property. A Licence does not confer any legal estate in land or property, and it does not attract security of tenure. Furthermore, a Licence does not attract the statutory protections of the Business Tenancies (Northern Ireland) Order 1996 which applies to Leases for a term of more than nine months. Both, however, are legally binding documents that may have ramifications on Council's ability to manage its estate for years to come; therefore, it is essential that in managing existing agreements, and in determining whether a new agreement should be entered into, Council follows the procedure set out in this section.

### **9.2 Lease and Licence Register**

It shall be the responsibility of the Compliance (Lands) team, in conjunction with the Finance service, to maintain a Lease and Licence Register.

The Register shall contain the following information as applicable:

- Type of agreement e.g., Lease, Licence, Operating Agreement, Ground Rent etc.
- Council's position e.g., Landlord, Tenant, Licensor, Licensee etc.
- Counterparty
- The digital reference number, which should be detailed on the Title Deeds Database referred to at section 5.1 above, and a link to the digital scan of the agreement
- Land / property name and description
- Address
- Start date
- End date
- Term and term remaining
- Premium paid
- Current rental fee and how this amount was assessed e.g., by Council's Valuer
- Abatement details, if applicable

- Frequency of payments
- Frequency of rent reviews
- Date of last rent review
- Date of next rent review
- Service unit with responsibility for the day-to-day management of the agreement
- Rates responsibility
- Maintenance responsibility and date of previous / due date of next Tenant's Statement of Assurance
- Date of last property inspection and due date of next inspection
- Summary of covenants/obligations (including those that may be time sensitive).

Quarterly meetings will be held between the Compliance (Lands) and Finance Service areas, and the Lease and Licence Register shall be a standing item on the agenda of those meetings in order that any issues concerning the Register itself or the agreements may be discussed. At one quarterly meeting each year, the whole Register shall be reviewed. In addition to this:

- It will be the responsibility of the Compliance (Lands) team to update the Register as and when it becomes aware of changes to be made or new agreements to be added; and to monitor the timeframes for rent review or term end dates, starting the process for renewals, rent reviews or terminating the lease as the case may be, at least six months in advance of the relevant end/due date. This will prevent overdue rent reviews or agreements rolling over without a formal decision being made by Council as to whether it wishes to extend the term.
- It will be the responsibility of the Finance Service to update any information relating to payments on the Register as and when it becomes aware of changes to be made. The Finance Service should also bring to the attention of the Lands Manager cases where a Tenant is in rent arrears and has failed to make prompt payment once it was made aware of this, or where a Tenant is repeatedly failing to pay rent on time.
- It will be the responsibility of the Assets and Property Service to carry out property inspections when due.

### **9.3 General Principles**

#### **9.3.1 Council authority**

In all instances where it is proposed that Council enters a Lease, Licence or other form of legal agreement that binds land or property, or amends or renews any such existing agreement, a report must be provided to the appropriate Committee of the Council detailing the proposed key provisions of the agreement.

Council must thereafter agree as to whether to enter into the legal agreement and Council's Solicitor will be instructed to draft the relevant agreement.

Where Council's Corporate Seal is required to be added, the agreement shall be countersigned by the Mayor and the Chief Executive. Where the Seal is not required, the agreement shall be provided to the Chief Executive along with a Council minute evidencing authority to enter into the agreement, and the Chief Executive shall thereafter sign the agreement on behalf of the Council.

### **9.3.2 Rental / Licence Fee**

The Council's Valuer will be instructed to provide a valuation for any rent or Licence fee payable. Any negotiations on price should be undertaken by Council's Valuer on behalf of Council, but the decision on accepting the final price will be a matter for Council to agree.

Council will not normally agree to reduce or waive rent or a licence fee and may do so only by exception. In relation to a Lease, other than one to which the abatement policy set out below applies, if Council is considering reducing or waiving the rental value assessed by its Valuer, consent to agree a 'less than best value' rent must be sought and obtained from the DfC.

Council had applied an abatement policy whereby a rental abatement of 50% was applied where the tenant demonstrated that it was:

- A not-for-profit club, society or organisation that will occupy the land or property solely for sports or recreational purposes;
- Open to the whole community without discrimination, with any membership fees set at a level that does not pose a significant obstacle to membership or use of the club's facilities; and
- Recognised by a relevant sporting body, where applicable;

This is in recognition of the Council's obligations under section 10 of the Recreation and Youth Service (Northern Ireland) Order 1986 "to secure the provision of its area of adequate facilities for recreational, social, physical and cultural activities and for that purpose may, either alone or together with another district Council or any other person.... Assist, by financial contributions or otherwise, any person to establish, maintain and manage any such facilities or to organise any such activities."

DfC confirmed it cannot approve a general policy. However, Individual cases meeting the above criteria will now be referred for Departmental approval to accept rent at less than best value (abated by 50%) pursuant to section 96(5)(a) of the Local Government (NI) Act 1972.

### **9.3.3 Repairing obligations within Leases**

Leases for a period of more than five years shall usually impose full repairing conditions upon the Tenant, unless there are specific reasons why this would not be practical, for example, the demise to the Tenant is for part of a building only and Council retains possession of the remainder and thus would wish to be responsible for structural issues.

Where Council carries out repair work that is the responsibility of the Tenant, Council shall recoup the costs of that work from the Tenant. This should be made clear within the terms of the Lease agreement.

As per section 9.2 above, the repairing obligations of the Tenant should be clearly reflected on the Lease / Licence register. The Assets and Property Service should not carry out repairs to leased premises without first checking with the Compliance (Lands) team whether it is Council's responsibility to do the work and, if it is, whether there is provision within the Lease to recoup any of the costs.

#### **9.3.4 Inspections**

Where Council has agreed to grant a new Lease or Licence of a building, the Estates Service will be asked to carry out a Buildings Condition Survey which will be annexed to the Lease or License as evidence of the condition of the building from the commencement of the agreement.

Regular inspections of leased premises will also take place and, in all cases, notice of the inspection will be given to the Tenant in accordance with the provisions of the Lease.

Council Land and/or Property held under long leases which are in effect a disposal as per the definition contained at section 7.2 above will not be subject to regular inspections. As a guide this will usually apply to leases for a term exceeding 99 years. However, there may be circumstances where regular inspections are deemed necessary, for example, if the Lease is a part of a Council building.

An inspection should always be carried out by the relevant service six months in advance of a lease coming to an end or if it is being considered for renewal to ensure that any failures by the Tenant with regard to their repair obligations may be identified and any costs recovered.

Tenants will also be asked by the Compliance team to complete annual statements of assurance to confirm that the various systems within the premises, such as boilers, fire alarms, emergency lighting, hot and cold water systems and air conditioning, for which the Tenant is responsible for maintaining, have all been maintained in accordance with all relevant statutory requirements and that any significant defects that affect the operation of the systems have been notified to the Council.

#### **9.4 Procedure for new Lease or Licence requests**

In all cases where it is proposed to Lease or Licence Council land or property, the following procedure shall be applied:

- i. Officers will undertake checks to ensure Council can evidence it has title to the land or property in question. These title checks should always be carried out by the Compliance (Lands) team.
- ii. If required, a site survey will be carried out to establish the general condition of the land or property and/or to produce an accurate map of the site.
- iii. Officers will consider the following:
  - a. How the land or property is currently used by Council and the wider public.
  - b. Whether Council has plans, or is likely to have plans, to use or develop the land or property in the future.
  - c. The development potential of the site (Planning Service input should be sought).
  - d. How the third-party intends to use the land or property, the impact this would have on the wider community, in particular section 75 groupings, and whether the proposed use complements or is in contradiction of Council's ambitions to become a more sustainable Borough (see policies referenced in section 2 above).
  - e. The applicability of any other Council policies or strategic reviews, particularly where the proposed lease relates to leisure facilities such as pitches.
  - f. Whether the third-party has any arrangements/agreements with Council in relation to the request in which case the lead officer should be consulted to provide further details.
  - g. Any relevant historical background to the land or property.
  - h. Any relevant previous dealings with any interested parties, including whether they have previously defaulted on rent or other payments owed to Council. Officers will consult with the Finance Department in relation to any affordability/financial checks that should be carried out to assess whether the third-party has the financial capability to pay rent and all other costs associated with the maintenance and operation of the land and/property.
  - i. How the land or property is accessed and whether the applicant gain access to the land without accessing other Council property in the vicinity.
  - j. Whether any rights of way or easements would need to be granted in conjunction with a Lease, and whether any restrictive covenants or special conditions would need to be put in place.
  - k. Whether the Lease or Licence would have an impact on operations or services, including maintenance, and the impact on any nearby Council land or property, particularly where only a portion of a wider plot of land has been requested.
  - l. The financial impact of granting a Lease or Licence if the land or property is income generating e.g., car parks or leisure facilities.
  - m. Whether granting a Lease could create a ransom strip (in which case Council may wish to reserve rights of access).
  - n. Any legislative or other impediment affecting the Lease or Licence e.g., if the property has a sitting tenant.



- x. If Council agrees to offer a Lease or Licence, the requestor will be advised of this decision and any terms and conditions attached. The requestor will also be asked if they intend to instruct a solicitor and to provide the details of their legal representative. Officers should recommend that the requestor seeks their own legal advice. The requestor must indicate that they accept the terms and conditions, further to which officers will instruct the Council's Valuer to provide a valuation, and the matter will then be referred to the appointed solicitor to progress (see point xi below where the requestor is a Club and point xii below where the requestor is a limited company).
- xi. If the requestor is a Club or Community Group, then evidence must be provided of the Club Resolution and relevant Committee minute proposing and approving the Lease or Licence, together with the Club's Constitution and a list of authorised signatories. If the Club does not intend to instruct a solicitor, it must provide photographic identification and proof of address for each of the authorised signatories. The authorised signatories must each return a signed copy of the terms and conditions as referred to in point x above.
- xii. If the requestor is a limited Company, then evidence must be provided of the Company Resolution and the minute authorising the Company to enter into the Lease or Licence together with the copy of the Company's Memorandum and Articles of Association, details of the authorised signatories and any other relevant documents (as may requested by the Council's solicitor). It will usually be a condition that a third-party requesting a Lease or Licence will be responsible for paying the entire cost of the Council's legal and valuation fees. However, where the third-party is a registered charity, a community group, a voluntary group or a registered sports club, and subject to officers receiving suitable supporting documentation **and** it intends to occupy the land solely for non-commercial and not for profit purposes, then the third-party will not be asked to cover Council's legal and valuation fees. In this instance both parties will cover their own costs.
- xiii. As per section 5.5 of this policy, relevant officers must be kept informed when a decision to grant a Lease of land is being contemplated, when a decision to proceed with the Lease has been made by Council, and when the transaction thereafter completes (or fails to complete and is halted).
- xiv. Once the transaction completes, the Lease and Licence Register should be updated accordingly.

## 10 Requests to use Council Land and Property

### 10.1 Context

Council owns a significant portfolio of land and property assets ranging from parks, playing fields and open spaces to facilities and buildings. Third parties regularly wish to use these assets for a wide range of reasons. Where a 'service specific' policy exists through which the request should be processed, that is the policy which should be applied. For example, separate policies exist in relation to the hire of Community Halls, use of Leisure Facilities, requests to name Council facilities, placement of benches on Council land, the flying of flags on Council land and a

Key Events Space pilot which has been agreed by Council and will run in relation to the McKee Clock arena and Marine Gardens. Any stand-alone policies agreed by Council, subsequent to this policy, will also take precedence. Where no such other policy exists, the procedure set out below should be followed.

## **10.2 General principles**

- i. Requests should usually be submitted in writing on the form attached at Appendix 1 and emailed to [landrequests@ardsandnorthdown.gov.uk](mailto:landrequests@ardsandnorthdown.gov.uk), unless the Compliance (Lands) team is satisfied it is already in possession of all the information required to process the request. An online form is also available on Council's website.
- ii. The notice to be given depends on the nature of the request and is outlined in the table set out at section 10.4 below. Exceptions may be made to the notice period in circumstances where it was not possible or practicable to provide the requisite notice, for example, in relation to access requests where the work is emergency in nature. Any agreement to reduce the notice period will be at the discretion of the Lands Manager.
- iii. Permission will not be given under this policy for any of the following to be held or used on Council land:
  - a. Circuses where there will be animals or any event that proposes to sell or give away animals
  - b. Car Boot Sales
  - c. Fireworks
  - d. Metal detectors
  - e. Balloon and sky lantern releases
  - f. Colour runs
- iv. Any requests for the placing of banners or other advertisements within Council owned parks, leisure or other facilities will not be processed under this policy and will instead be passed to the relevant service area to consider including Planning as they often require advertising consent.
- v. While approval may be given for food vendors, including coffee carts and ice cream vans, to be present at events provided they pay a fee, such approval is on the basis that they are incidental to the event. Ice cream vans, coffee carts and mobile saunas are otherwise only permitted on Council land through the licences put in place further to periodic expressions of interest competitions managed by the Parks Service.
- vi. There will be no fee applied to the user where the use is not-for-profit, there are no commercial elements involved and the user is a registered charity, a community group, a voluntary group or a registered sports club, subject to Council receiving suitable supporting documentation. However, where there are commercial elements to a use and/or a Licence is required, a fee as assessed by Council's Valuer will normally be applicable and the requestor will normally be required to also cover Council's legal and valuation fees, unless Council agrees to waive part of or all these costs, which it will only do in exceptional circumstances or if the user is a registered charity, community group, a voluntary group or a registered sports club. Costs, where there is a commercial element involved in the requested usage or where a Licence is required, are set out at section 10.4 below. Payment must always be made in advance of the use.

- vii. Permission granted under this policy to use Council land or property is without prejudice to any planning, building control, environmental or other legislative or regulatory requirements and it will be a matter for the person making the request to ensure that they apply for such other permissions as required. The Compliance (Lands) team is unable to give advice in this regard. Likewise, securing planning permission or receiving grant funding, even if administered by the Council, does not confer permission to use Council land or property and an application to use Council land or property as per the form attached at Appendix 1 must still be completed by the requestor in order that the intended use may be processed under this policy.

### **10.3 Procedure for processing requests to use Council land and property**

Requests will be processed under this policy by the Compliance (Lands) team as follows:

- i. When a request is first received, the officer processing the request will check that there are no restrictions on Council's title to the land or property that would limit or prohibit the activity or use requested, for example, some titles contain covenants prohibiting commercial activity on the land or property.
- ii. Details of the request shall be circulated by email to CLT, HOST, SUMs and any other relevant officers seeking their views. Where the request relates to a facility managed by a specific service area, for example, Parks or Leisure, the views of management of the relevant service area should be sought and considered in the first instance.
- iii. Consideration will be given by the officer processing the request as to whether a Licence is required. Where the request will be for a period of more than two weeks continuous use, is for periodic use which will total three or more occasions, or is for a major event such as a concert, a Licence will normally be required. The table at section 10.4 below refers and if in doubt, officers may seek legal advice. Licence fees will be determined by Council's Valuer and Council's valuation and legal costs should be recovered from the requestor, although Council may in exceptional circumstances agree to waive this fee.
- iv. Feedback from internal consultation together with any other relevant factors will be collated and will be the basis upon which officers make a decision or form a recommendation to Council as the case may be. Authority for decision making is as follows:
  - a. The Lands Manager has delegated authority to approve requests where no Licence is required, although such approvals may be reported to Council for noting if the event or usage is likely to attract public attention or commentary. While it will not always be possible to predict this, usage such as filming of a major production, or which involves the temporary closure of a heavily used public space for a week or more would likely be reported to Council for noting.
  - b. If a Licence is required, Council approval to grant the Licence must always be obtained and Council's Solicitor will thereafter be instructed to draft the Licence.
- v. Where approval is granted, the person who made the request will be advised in writing of the terms and conditions upon which approval is granted and any fees payable. A bond of £500, or other value deemed appropriate by the Lands

Manager, to be held by Council in a client account, may be applied where the usage has the potential to cause damage to Council's property due to the nature of event, type of equipment being used, or number of people expected to attend the event. Standard terms and conditions are attached at Appendix 2 and supplementary terms and conditions in relation to the use of inflatables, drones, incidental traders, unit base car parking and for works on Council land are attached at Appendix 3. All terms and conditions may be tailored to the individual request by the Compliance (Lands) team when granting approval.

- vi. Officers processing the request must ensure that the applicant has indicated in writing that they accept the terms and conditions before the event or use of land takes place and that any monies due are paid in advance. Officers must ensure that any documentation required in advance, such as evidence of insurance, risk assessments or event management plans, is received prior to the event or use going ahead, and in consultation with other officers have discretion to require that such documentation be supplied in advance of approval being granted. A failure to provide appropriate documentation will mean that any permission previously granted will no longer be valid.
- vii. For all major events, and for some larger events, festivals, or series of events, where officers determine it appropriate, the organisers must participate in a Safety Advisory Group (SAG). Terms of Reference for a SAG are attached to this policy at Appendix 5. Where a SAG is deemed necessary, the Compliance (Lands) team's permission to run the event will not normally be granted until the organisers have demonstrated that they have completed all the necessary paperwork and taken steps to implement the recommendations of the SAG.
- viii. The officer processing the request should ensure that the Borough Calendar is updated in relation to any approved events or works taking place on Council land or property. They should also liaise with the Corporate Communications Service where it is envisaged that the permitted use of land or property will disrupt or have a significant impact on the wider public's use of Council land or property.
- ix. Where the request relates to an event, the additional procedure at section 10.5 in relation to risk management is applicable.
- x. Where the request involves the temporary closure of all or part of a car park to which the Off-Street Parking Order (Northern Ireland) 2000 applies i.e., a car park which transferred to Council from the Department for Infrastructure in 2015 (then Department for Regional Development), the additional procedure at section 10.6 below is applicable.

#### **10.4 Overview of notice period, licence requirements, fees and approval authority**

The table below provides an overview of the main types of requests received, the notice period required, whether a Licence is required, whether a fee will be applied and whether authority to grant approval can be given by the Lands Manager or must be reported to Council for approval. The list is not exhaustive and there may be exceptions, for example, the Lands Manager may agree to reduce the notice period required. Any decision to waive fees may only be made by Council and will only be made in exceptional circumstances.

Most requests to use Council land or property will require a minimum of six weeks' notice, to give officers sufficient time to review and process. However, there may be exceptions to these timescales, and these will be on a case-by-case basis and at the discretion of the Lands Manager.

Type of request	Notice period	Will a Licence usually be required?	Will a fee usually be applied?	Authority to grant approval
<b>One-off community / charity events</b>	6 weeks	No	No, if a non-profit event and no Licence is required. Yes, if there is a commercial element and/or a Licence is required.	Lands Manager if no Licence required/ Council if Licence required
<b>Council grant-aided events and events on or near water (even if not grant-aided) *</b> e.g., community festivals, community concerts and Christmas events	3 months (or at the point where the application for grant is being made)	No	No, if a non-profit event and no Licence is required. Yes, if there is a commercial element and/or a Licence is required.	Lands Manager if no Licence required/ Council if Licence required
<b>Commercial markets and funfairs</b>	4 months	Yes, if ongoing over a period of more than 2 weeks or if recurrent events taking place on 3 or more occasions within 3 months	Yes, if there is a commercial element and/or a Licence is required.	Lands Manager if no Licence required / Council if Licence required
<b>Commercial concerts or festivals of 10,000 people or more*</b>	6 months	No	Yes – amount to be determined by Council's Valuer and including any valuation and legal fees.	Council
<b>Access requests</b> e.g., from utility providers or from private homeowners or businesses	3 months	Yes, if ongoing over a period of more than 2 weeks or if recurrent events taking place on 3 or more occasions within 3 months	No if no Licence required. Yes, if a licence is required – amount to be determined by Council's Valuer and including any valuation and legal fees.	Lands Manager if no Licence required / Council if Licence required
<b>Request to operate a business</b> (except for those noted at section 10.2 point v above)	3 months	Yes, if ongoing over a period of more than 2 weeks or if recurrent events taking place on 3 or more occasions within 3 months	Yes, if there is a commercial element and/or a Licence is required.	Lands Manager if no Licence required / Council if Licence required
<b>Filming requests (including footage taken by drones)</b>	6 weeks (shorter notice may be acceptable depending on the type of filming).	No	No if for a student/charity production or a non-commercial production company. A small commercial production company filming for up to 3 days will also be exempt.	Lands Manager if no Licence required/ Council if Licence required

Type of request	Notice period	Will a Licence usually be required?	Will a fee usually be applied?	Authority to grant approval
			Otherwise yes, with Council's Valuer to determine the fee.	
<b>Placing of equipment and miscellaneous use</b> e.g., storage containers	3 months	Yes, if the equipment will be there, or use will be for a period of more than 2 weeks	No if a non-profit purpose and no Licence is required. Yes, if there is a commercial element and/or a Licence is required.	Lands Manager if no Licence required / Council if Licence required

\* A Safety Advisory Group (SAG) meeting may be required for these types of events depending on either the number of people expected to attend or other circumstances, for example, officers may determine it carries a significant degree of risk due to the location or the nature of the event being proposed. Further information is included in the Council's Terms of Reference for SAGs, attached at Appendix 5. Where a SAG meeting is deemed necessary, the permission to use Council land to run the event may be given in principle, on the condition that the organisers agree to demonstrate to Council that they will complete all the necessary paperwork and take steps to implement the recommendations of the SAG.

Where a fee is not to be determined by Council's Valuer, the Lands Manager will maintain a charging schedule which will be reviewed on an annual basis in line with Council's Charging and Income Policy. The schedule is included at **Appendix 4** of the Land and Property policy, and the Lands Manager has delegated authority to update the Appendix upon each annual review of charging being completed.

## 10.5 Event management

Council has a number of spaces that may be used by third parties for hosting events, such as markets, small concerts, sporting events, community fun days, festivals, parades and more. The suitability of any particular venue will depend on site specific risks, the event proposed, the number of people attending, the duration of the event and impact on other Council or local services, and the capacity of the organisers to demonstrate to Council that it can run a safe and well managed event through compliance with regulatory requirements (Environmental Health, Licensing etc.) and the production of high quality Event Management Plans and Risk Assessments.

In the absence of any other applicable policy (e.g., a Key Events Space pilot has been agreed by Council and will run in relation to the McKee Clock arena and Marine Gardens), any request by a third-party to run an event on Council land or property should be processed in accordance with this Land and Property policy, even if the event is funded or part funded by Council. The notice periods for making a request are set out in section 10.4 above. Council events are not subject to the process as detailed in this Policy.

In addition to the other requirements of section 10 of this Land and Property policy, the following steps must be undertaken in relation to events:

- i. When issuing an internal consultation on the request, the Compliance (Lands) team will ensure that any events which propose the use of inflatables, fairground equipment, animals or motorbikes, that involve or are in close proximity to open water or swimming pools, or that are novel or are events which may be considered a higher risk are specifically flagged to the attention of the Risk Manager along with any information provided by the requestor as to how they intend to manage the risk and their set-up plans.
- ii. When issuing approval in relation to an event, the officer processing the request should provide a link to Council's Event Management toolkit which provides guidance on the safe management of events and contains Event Management Plan templates and Risk Assessment templates.
- iii. An Event Management Plan and Risk Assessment should be prepared for all events by the organisers and submitted to the Compliance (Lands) team in accordance with the terms and conditions.
- iv. For all major events, and for some large events where the Risk Manager determines it appropriate, the organisers must participate in a Safety Advisory Group (SAG). Where a SAG is deemed necessary, the lands permission to run the event will not normally be granted until the organisers have demonstrated that they have completed all the necessary paperwork and taken steps to implement the recommendations of the SAG.
- v. Where approval is being given for an event, in particular a major event, the standard terms and conditions (attached at Appendix 2) should be tailored, with specific consideration given to adding requirements in relation to:
  - a. Noise monitoring to Council's specification and at the organiser's expense.
  - b. Early consultation by the organiser with residents, with relevant measures put in place during the event such as residents parking permits, free tickets for residents who may be inconvenienced.
  - c. Requirements in relation to the provision of security and medical personnel (this should be detailed anyway in the Event Management Plan and Risk Assessment, but specific reference may be included in the terms and conditions also given the critical importance of this).
  - d. Time limits in relation to building the site and site clearance post-event.

### **10.6 Requests to use a car park to which the Off-Street Parking Order (Northern Ireland) 2000 applies**

Any request that involves the temporary closure of all or part of a car park to which the Off-Street Parking Order (Northern Ireland) 2000 applies, i.e., a car park which transferred to Council from the Department for Infrastructure (then Department for Regional Development in 2015, will not normally be acceded to given the administrative burden this places upon Council (this does not apply to events delivered by the Council).

In exceptional circumstances, and at the discretion of the Lands Manager, such a request may be considered, for example, if the proposed use is for an event that

will provide a benefit to a large number of the inhabitants of the Borough, as opposed to catering to a niche market, or if the request relates to access required by a contractor to carry out essential maintenance works to pipes, conduits etc. Under no circumstances can any trading or other commercial activity be permitted to take place unless Council agrees to invoke the procedure under the Order to suspend the use of the car park, or a section of it, as a car park for such duration as may be required.

Where such a request is to be processed, the usual procedure as set out in section 10.2 above shall be followed, with feedback from the Service Unit Manager (SUM) responsible for car parks to be specifically obtained during the internal consultation on the request.

The Lands Manager will formulate a view on whether the request should be rejected or acceded to. This view will be formed based upon the feedback received during the internal consultation and the following additional factors:

- Any potential benefit of the proposed use to Council and/or to the residents of the Borough;
- The number of car parking spaces likely to be affected;
- The duration of the interruption;
- The impact on the usual users of the car park and their options for parking elsewhere during the period of interruption;
- The amount of notice given; and
- Whether there are any viable alternative options for holding the event or providing access which would achieve the same or similar outcome, but which would not involve the closure of any part of the car park.

Where the Lands Manager is of the view that the request should be acceded to, the matter will be reported to Council for approval, unless the access required is emergent in nature and there is insufficient time to seek Council consent, in which case the Lands Manager may give approval and a report will be provided to Council retrospectively for noting.

Where approval is granted, it will be the responsibility of the Lands Manager to ensure that the SUM responsible for car parks is made aware of this, and it will be the responsibility of that SUM to ensure that an Administrative Order is issued and notice of the closure is advertised in the local press and on the Council's website in accordance with Article 13 of the Road Traffic Regulation (Northern Ireland) Order 1997. In such cases the applicant will be responsible for all Council costs associated with the closure, including advertising.

## **11 Light up requests**

Council does not light up its buildings or properties on request.

# APPENDIX 1 Request to Use Council Land Form



## **REQUEST TO USE COUNCIL LAND**

Before completing this form, please familiarise yourself with section 10 of the Council's Land and Property Policy which sets out the principles applicable to land requests and the procedure that Council will follow when determining whether to grant approval to such requests and whether a fee is applicable.

**Please note the notice periods for making a request.** This will usually be at least 6 weeks before the required use but will be 3 months for larger events such as markets and funfairs and 6 months for major events such as concerts.

The Land and Property Policy can be viewed here: [a link will be provided to this policy].

### **Section One: About you**

Name of Individual	
Name of Organisation on whose behalf application is made (if applicable)	
Contact Name	
Contact address/email address	
Contact telephone number	

### **Section Two: About your event/request for land use**

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 request?	
Date of event/usage request	

Start and end times (including set up and take down)	
If an event, how many people do you think will be attending?	
Have you received/applied for Council funding towards your event/usage request?	

**Section Three: Event Details**

Please complete this section if you are requesting the use of land for an event.

**Do you intend to use or have any of the following at your event? (Please circle yes or no)**

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
Staging	Yes	No
Gas	Yes	No
Public toilets	Yes	No
Portaloos	Yes	No
Alcohol	Yes	No
Animals	Yes	No

If the answer to any of the above is yes, please provide further information below.

**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 including medical 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.

An Event Management Toolkit and template Event Management Plans and Risk Assessments are available through the Council’s website: [Event Management Toolkit | Ards and North Down Borough Council](#) . Please note that you do not have to use the templates provided as these are intended for guidance only and you may use your own template.

In accordance with the Council’s Land and Property Policy, charges may be applied for the use of Council land. In addition, some Council services and equipment may be available to hire on a first-come, first-served basis.

For more information on charges for land use and general equipment hire please contact [landrequests@ardsandnorthdown.gov.uk](mailto:landrequests@ardsandnorthdown.gov.uk)

There are a limited number of litter pickers available for loan, for more information please email [nrdwastemanagementenquiries@ardsandnorthdown.gov.uk](mailto:nrdwastemanagementenquiries@ardsandnorthdown.gov.uk)

**Section Four: Signature**

I confirm I am aged 18 years or above and that the information provided on this form is to the best of my knowledge accurate and correct. If I am signing on behalf of an organisation, I confirm that I have the full authority from the organisation to sign for and on behalf of it.

Signed:	Date:
For and on behalf of (organisation name)	

## APPENDIX 2 Standard Terms and Conditions

[These shall be tailored to the individual request by the Compliance (Lands) team when granting approval]

In accordance with Council policy, this agreement between Council and the Applicant is made up of and will be subject to the following terms and conditions.

(A) The Applicant must:

- i. Ensure that the use of Council land or property is limited to (set out what is being approved, where, the date(s) and times, and any other limitations e.g. numbers).
- ii. Pay a fee to Council of £x on account of the usage of Council land and property, along with a bond of £x, with all monies to be paid at least 14 days in advance of the event.
- iii. Provide fully completed Risk Assessment(s) (RA) and Event Management Plan(s) (EMP) and any other documentation requested by Council that demonstrate suitable and sufficient arrangements will be in place to ensure safety at the Event and the ability of the Applicant to manage an emergency at the Event. The documents must be provided at least 14 days in advance of the Event unless specified otherwise by Council officers or following attendance by the Applicant at a Safety Advisory Group (SAG) meeting at the request of Council. Council acknowledges that any such RA and EMP are living documents and are subject to change as agreed between Council and the Applicant. By reviewing documentation and giving permission for the Event, the Council or the SAG shall not in any way whatsoever be construed as giving express or implied consent or approval in relation to the sufficiency of the safety measures and arrangements for the Event. See also below at part (B) "The Council" paragraph iii.
- iv. Be satisfied as to the suitability and safe condition of the Council land or property to be used and to ensure the safety of those working at or attending the Event, or others who may be impacted by the Event.
- v. Obtain suitable expert advice where the risks, complexity or size of the event are outside the scope, knowledge or expertise of the applicant. (Please note where the applicant has attended a SAG meeting that officers and members of the SAG cannot be construed as expert advisers to the applicant or any other relevant 3<sup>rd</sup> party involved in organising the event).
- vi. Display public notices for at least 14 days before the Event to notify the public that the Event is due to take place in the area. All signage to be agreed in advance with the appropriate Council Officer.
- vii. Remove public notices after the Event within seven days.
- viii. Provide written evidence of relevant insurances with reputable insurance companies to cover all relevant potential liabilities in connection with the Event at least 14 days in advance and fully indemnify Council against all risks, including without limitation injury to persons and/or damage to land or property, associated with the Applicant's use of the land or property.

- ix. Employ enough stewards to efficiently and effectively protect the land and property as well as to attend the control of entrances and side gates/door with a view to ensuring the comfort and safety of the public/audience/spectators etc and/or to prevent any anti-social/rowdy or obnoxious behaviour.
- x. Provide appropriate welfare facilities at its own cost.
- xi. Put in place protective measures for areas where important natural heritage is present.
- xii. Make good any damage caused during the use of the land and property and pay to the Council the cost of any repair work the Council is required to undertake or items the Council considers necessary to replace as a result of the Applicant's use.
- xiii. Arrange for the prompt removal of any items used in connection with the Applicant's use e.g., staging or fencing (the timescale for removal to be agreed with Council Officers).
- xiv. Arrange for the collection and subsequent removal of all litter and other debris from the Event and any adjacent areas during the Event, as well as once the Event has concluded. However, should the Council have to do any additional cleaning the Council's costs for same will be recovered from the Applicant.
- xv. Put in place measures to ensure that all litter generated during the Event by the organisers, their contractors or by attendees is recycled to the fullest extent possible. Applicants should consider how to minimise any waste produced and ways in which they can make the Event more sustainable.
- xvi. Agree to provide maps or any other document deemed appropriate by Council Officers.
- xvii. Put in place plans to limit any negative impact on the public using the land at the same time as the Event. Any plans to fence off or exclude the public from any areas should be agreed in advance with Council Officers.
- xviii. Ensure accesses to adjacent properties or businesses are maintained during the Event.
- xix. Engage with such parties as reasonably required by the Council regarding the Event and use of the land and explain to such parties the impact this may have on their usual enjoyment of the land.
- xx. Ensure that where appropriate, the car parking facility at the location remains available for use by the general public and that contractors/attendees do not park on grass areas.
- xxi. Agree in advance with Council officers where electric supplies are being used. Additional costs may apply depending on the services required.
- xxii. Ensure that no petrol generators are to be used. Where other generators are being used, ensure appropriate spill provision shall be in place.
- xxiii. Ensure that no chemicals, oils or other substances shall be poured down drains and where cooking oil is being used, appropriate spill provision shall be in place.
- xxiv. Ensure any statutory or regulatory permissions, licences or permits are sought and obtained in advance of usage.
- xxv. Comply at all times with any other relevant legislative provision including byelaws and have due regard to the Disability Discrimination (Northern Ireland) Order 2006 and Section 75 of the Northern Ireland Act 1998.
- xxvi. Comply at all times with the Council's Safeguarding Policy where children, young people or adults who may be vulnerable will be in attendance.
- xxvii. Notify the Council in advance where animals will be used as a part of any Event, so that checks to ensure that welfare arrangements are in place can be

undertaken, and the Council's Animal Welfare policy must be adhered to at all times.

- xxviii. Ensure that only the designated area, or areas specified by Council Officers are used for the Event and for the purpose agreed.
- xxix. Must notify Council officers as soon as possible if the event is cancelled.
- xxx. Adhere to any and all other specific considerations as notified by Council to the Applicant.

(B) The Council:

- i. Shall not be responsible for any loss, damage or injury to any property or person(s), including the Applicant and/or its agents, servants or employees suffered by reason of act, neglect or default of the Council, its agents, servants, or employees. Nothing in these Standard Terms and Conditions shall limit any liability which cannot legally be limited or excluded by applicable law.
- ii. Accepts no responsibility as regards loss or damage to property belonging to persons using the land and/or property.
- iii. Does not guarantee the suitability of the land and/or property being used for any purpose whatsoever and the Applicant shall in all events be deemed to have satisfied themselves as to the suitability and safe condition of the land and/or property as no liability shall attach to the Council in respect of same. In reviewing details of the Event, giving advice and permission for the Event the Council shall not give express or implied approval in relation to the sufficiency of the safety measures and arrangements for the Event.
- iv. Cannot guarantee exclusive use of the land and/or property where it includes an open space, such as a park and is not responsible for the actions of any other users of the space.
- v. Shall always have the right to have a duly authorised Officer of the Council present and have access to all parts of the land and/or property for the purposes of inspection.
- vi. May require a pre-Event and post Event inspection to be carried out in conjunction with a Council Officer.
- vii. Reserves the right to cancel the booking at any time if the Applicant does not comply with these Standard Terms and Conditions.
- viii. May withdraw, cancel or change permission to use Council land and/or property at short notice due to exceptional or unforeseen circumstances. Council shall notify the Applicant of any such withdrawal, cancellation or change of permission as soon as possible. The Council and the Applicant agree that the Council shall not be in breach of any agreement between the parties by virtue of that withdrawal, cancellation and/or change of permission and on the Council notifying the Applicant of any such withdrawal, cancellation and/or change of permission any agreement between the parties shall automatically terminate.

**No booking can be confirmed until the Applicant returns a signed copy of these Standard Terms and Conditions.**

The Applicant agrees to be bound by these Standard Terms and Conditions set out above, is aged 18 years or over, and has the full authority from the organisation or body on whose behalf they are making this application, to sign for and on behalf of it.

Signed:	Date:
For and on behalf of (organisation name where relevant)	

## APPENDIX 3 Supplementary Terms and Conditions

The following Supplementary Terms and Conditions will apply in addition to the Standard Terms and Conditions for use of Council land and property involving inflatables, drones, incidental traders, filming and/or using Council land and/or property for a unit base and for requests to carry out works on Council land and property and shall be tailored to the individual request by the Compliance (Lands) team when granting approval of an application.

### SUPPLEMENTARY TERMS AND CONDITIONS FOR INFLATABLES

The Applicant must:

- i. Provide a risk assessment for the inflatables including its power supply
- ii. Ensure any inflatables are securely fixed to the ground (the determination of how many weights and the minimum weight per inflatable should be as per manufacturer's instructions for use) and use a vane anemometer to ascertain wind speeds.
- iii. Ensure that inflatables comply with BS EN 14960 and have had an initial test to ensure compliance when new.
- iv. Ensure inflatables have had an annual inspection carried out by an inspector from PIPA or ADiPs. More information of the safe use of inflatables is contained at the following link <https://www.hseni.gov.uk/topic/bouncy-castles-and-other-play-inflatables>. The following sections should be considered conditions of use on Council land: Setting up safely; Before anyone uses it and Safe use, Supervision and Monitoring.
- v. Not to use sandbags or tie off inflatables to fences, trailers or vehicles are not considered suitable ballast and are therefore not permitted.

### SUPPLEMENTARY TERMS AND CONDITIONS FOR USING DRONES

The Applicant must:

- i. Fully comply with the Air Navigation Order 2016 and the Air Navigation (Amendment) Order 2021.
- ii. Provide evidence of the appropriate permission from the Civil Aviation Authority.
- iii. Provide a risk assessment including the operating procedure.

In addition, the drone must **NOT** be flown:

1. Near any airfield, airport or other aircraft.
2. Within 50m of a person, vehicle, building or structure.
3. Over or within 150m of crowds or built-up areas.
4. Beyond sight or behind obstruction.

5. Above 400 ft (120m).
6. If there are any problems with the drone.

## **SUPPLEMENTARY TERMS AND CONDITIONS FOR INCIDENTAL TRADERS**

The Applicant must:

- i. Provide a list of all traders attending the Event and paying the appropriate fee in line with the prevailing Council rate.
- ii. Provide the Council with a list of any suppliers/food providers for the Event at least six weeks in advance of the Event taking place.

## **SUPPLEMENTARY TERMS AND CONDITIONS FOR USE OF LAND FOR FILMING AND/OR AS A UNIT BASE IN CONNECTION WITH FILMING**

The Applicant must:

- i. Pay the appropriate fee (including per vehicle per day where the land is being used as a unit base).

## APPENDIX 4 Use of Land Fees

There are circumstances when the fee to be applied to a use of Council land will be determined by the Council's Valuer, for example, if a Licence is to be put in place. This is set out in the table at section 10.4 of the Land and Property policy.

Where a fee is not to be determined by the Council's Valuer, the Lands Manager will maintain a charging schedule which will be reviewed on an annual basis in line with the Council's Charging and Income Policy. The schedule will be included at Appendix 4 of the Land and Property policy and the Lands Manager has delegated authority to update the Appendix upon each annual review of charging being completed.

The applicable charges as of 1<sup>st</sup> April 2025 are:

- Incidental traders at events - £10 per trader.<sup>1</sup>
- Charged car parking spaces - £4.50 per day per car parking space.

In addition, if an Administrative Order is required to be issued in relation to the temporary closure of a car park in accordance with the Road Traffic Regulation (Northern Ireland) Order 1997, the cost of preparing and advertising the Order and any incidental costs will be payable by the applicant.

Where price cannot be determined by reference to trader numbers or car parking spaces, or where a Licence is to be put in place, the Council's Valuer shall usually<sup>2</sup> determine the appropriate fee to be paid. In such instances the applicant will also usually be expected to pay the Council's valuation and legal fees. The valuation and legal fees will still be payable even if it subsequently transpires a Licence is no longer required e.g., due to an event being cancelled.

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<sup>1</sup> This was previously in line with the temporary street trading fee. The Council has approved an uplift in the fee from £10 to £20 effective from 1<sup>st</sup> April 2025. It is not proposed to increase the incidental trader fee for the use of Council land.

<sup>2</sup> If applicants provide notice of a land request in line with the timeframes set out at section 10.4 of this policy, this will allow sufficient time to seek a valuation if required. However, if the Lands Manager waives the notice requirement and as a result there is not enough time to obtain a valuation, the Lands Manager shall also have the discretion to determine an appropriate fee in circumstances where there is a precedent.

# **APPENDIX 5 Safety Advisory Group – Terms of Reference**

Version date: 27 July 2022

## **1. Introduction**

Safety Advisory Groups (SAGs) have been in existence for many years, to some extent as a consequence of the recommendations of Lord Justice Taylor following his inquiry into the Hillsborough Tragedy of 1989. Whilst this encouraged the establishment of SAGs in relation to football it is also recognised that there are potential advantages in terms of SAGs for a broad range of other events. The SAG is an advisory group with no legal status, although it is considered best practice. The SAG does not make any decisions on behalf of Ards and North Down Borough Council, or the other parties involved in the group, and as such it has no authority to either approve or ban events. The decision-making still sits within the individual organisation, and it is up to each organisation to determine and exercise their own statutory decisions.

## **2. When Will A SAG Be Initiated?**

Anyone can ask for an event to be considered by the SAG. Council events will be flagged up via the Councils events calendar. Partner organisations are encouraged to notify the Council chair of the SAG of any event that may need considered. The chair in consultation with the Councils risk manager will assess all such requests and will bring them to a meeting of the group if any one of the following criteria are met.

1. It is an event which is large in numbers attending at one time (10,000 people plus)
2. It carries a degree of significant risk as advised by the Council's Risk Manager
3. It is unusual in nature
4. It is being undertaken by a new event promoter or in a new venue.
5. If the event is related one where there have been incidents of concern with events of a particular type, particular venue, or particular promoter.

## **3. Purpose of the SAG**

The SAG provides a quality assurance process in terms of the safety arrangements for events by bringing together as required officers of the Council, Police Service for Northern Ireland, (PSNI), Northern Ireland Fire and Rescue Service (NIFRS), the Northern Ireland Ambulance Service (NIAS), the Department for Infrastructure, Roads Division (DfI) and other partners as relevant to any specific event. The aim of the SAG is to consider the event safety plan submitted by the organiser and offer advice in order to ensure the highest possible standards of public safety at events and to encourage the wellbeing of those that could be affected by the event.

The SAG should advise the event organiser about public safety matters that they think need further consideration, explaining their reasons. It is the event organiser's responsibility to take any appropriate action. On the rare occasion where there is disagreement between a SAG and the event organiser, and there remains a genuine risk to the public, individual organisations on the SAG such as the police, may decide to act to resolve the issue. Decisions on the use of these powers are matters for the relevant authorities to consider, not the SAG and should be discharged separately.

## **4. Objectives**

The objectives of the SAG are to assist the Organiser of the event by:

- Providing advice to ensure high standards of Health, Safety and welfare
- Promoting principles of sensible risk management and promote good practices in Health Safety and welfare
- Providing a consistent and co-ordinated multi-agency approach to advising the Organiser on their planning and management of the event
- Providing advice by recommending appropriate contingency and emergency arrangements
- Providing views in respect of relevant legislation and guidance, but not amounting to legal advice which would remain a matter for the organiser
- Encouraging arrangements to minimise disruption to local communities
- Considering the implications of significant incidents and events relevant to both the event/venue and surrounding areas/facilities
- Promoting clarity of roles and responsibilities
- Providing advice to the licencing authority (Ards and North Down Borough Council) with regards to the safety of the event

## **5. Membership and Roles of Members of the SAG**

See Appendix A

## **6 Meetings and Governance**

When a SAG is required, it should aim to convene at least 4 months ahead of the event and, for highly complex events, at least 6 months before the event. The event organiser will be asked to provide a copy of the Event Management Plan, including detailed plans around traffic management, health and safety of the site and event, medical plan, contingency and emergency plan and any other plans relating to the safe operation of the event at least 3 weeks in advance of the SAG meeting so it can be circulated to all participants. The event organiser will also be expected to attend the SAG meeting to answer questions. A SAG can meet or be virtual with e-mail correspondence copied into all SAG members. The Council will provide secretariat support to the SAG\* and a record of the meeting will be taken and circulated to all member organisations and the event organiser within 5 working days of the meeting taking place. The SAG will be chaired by the Head of Environmental Health and Regulatory Services (EH&RS), unless it is considering a Council event, in which case it will be chaired by the PSNI. The meeting will not be opened to the public, and attendance by persons other than the members of the SAG will be at the discretion of the Chairperson.

## Appendix A - Membership and Roles of Members of SAG

Organisation	Officer	Role
The Council	Head of EH&RS	To Chair the SAG, unless a Council event, when PSNI will chair
The Council	A Licensing Officer	To provide advice to event organisers on all licensing matters under the Licensing Act To liaise with the event organisers in relation to any recommendations or advice provided by the SAG
The Council	2 Environmental Health Officer SUMs	To provide advice on all matters relating to noise control To provide advice on all matters relating to hygiene, sanitation and food safety To provide advice on all matters relating to health and safety enforcement responsibilities of the Council
The Council	A Risk Management Officer	To provide general risk management advice on the organiser's plans. To provide advice on the organiser's plans to deal with an emergency situation which may arise immediately prior to, during, or immediately after the event. To provide advice the SAG on any implications for the Council's Emergency Plan for dealing with major incidents
Police Service for Northern Ireland	Superintendent / nominated PSNI personnel	To provide advice on crime prevention and detection To provide advice on traffic management To provide advice and support in relation to any

		other identified policing issues
Northern Ireland Fire and Rescue Service	Assistant Group Commander or nominee	To provide advice on fire related matters in regard to operations, fire and community safety at events
Northern Ireland Ambulance Service	Area Manager or nominee	To provide advice on suggested medical provision. To provide advice relating to the Emergency Plan/Major Incident contingencies. To ensure the event has minimal/no impact on the NIAS normal operations.
Department for Infrastructure (Roads)	Network Development lead or nominee	To provide advice on the Event Traffic Management Plan. To advise the SAG on the impact of the event on the wider transport infrastructure and services.
Other relevant partners e.g., Coastguard, Head of Parks and Cemeteries, Translink, Corporate Communications (ANDBC)	As required	

### SAG PROCESS

