One Corby Policy Committee 22nd July 2008

Disposal of Council Land and Property

SYNOPSIS
To update the Council’s disposals policy in line with legislative and service area changes

1. Relevant Background Details
In December 2002 the former Resources and Regeneration Committee resolved to delegate authority to the then Head of Legal Services to agree land sales up to £250,000 in value to be index linked to inflation on an annual basis. It further resolved to approve the use of Tenancies at Will as a means of improving commercial lettings.

In October 2007 a new service area CB Property was formed which absorbed the estates function previously part of Legal & Democratic Services. The consequentially amended Scheme of Delegation removed the land disposals function from the Head of Legal & Democratic Services and transferred it to the Head of CB Property.

2. Report

Best Consideration
S123 of the Local Government Act 1972 obliges local authorities to dispose of land (dispose in this context is any leasehold interest longer than 7 years or a freehold sale) for the best consideration reasonably obtainable. Government has since recognized that there may be circumstances where a local authority considers it appropriate to dispose of land at an undervalue. The General Disposal Consent (England) 2003 allows local authorities to dispose of land at an undervalue (that is the difference between the best consideration reasonably obtainable and the consideration the authority wishes to accept) not greater than £2m (two million pounds) where it considers that to do so will help secure the promotion or improvement of the economic, social or environmental well being of its area. For undervalue disposals greater than £2m, Secretary of State consent is required.

Delegated Authority
The 2002 Report delegated authority to the Head of Legal Services to dispose of land up to £250,000 in total transaction value. At the time this was reported as being the equivalent of 2-2½ acres of industrial land or ½-1 acre of residential land. The Report further authorised that this be increased annually by the rate of inflation. The increase in the retail prices index (which is not the same as land price inflation) is some 20% between December 2002 (index 178.5) and April 2008 (index 214) which would increase the delegated level to £300,000.

Since the December 2002 Report, responsibility for property matters including disposals has passed from the Head of Legal to the Head of CB Property. The Scheme of Delegation was amended accordingly in October 2007.
The 2002 Report gave delegated disposal authority to a Service Head alone. It is considered prudent that the Chief Financial Officer of the Council is joined as a party to any such disposal.

It is further considered proper to formalise the convention that Ward Members be notified of all proposed sales of Council land.

**Tenancies at Will**

The December 2002 Report promoted these as a means of speeding up the letting of units and improving the Council's revenue flow. It cited Southfolds Industrial Estate owned by the Council as the successful pilot of that policy.

Whilst it is true that Tenancies at Will can increase the speed of lettings and give the Council flexibility; on the other hand, the Council has no real security for its income stream and this makes it vulnerable. Tenancies at Will also make it impossible to levy service charges on tenants and these are significant items of cost for the Council. At Southfolds where this policy was piloted, tenants have been 'at will' for many years and are unwilling to move to a more formal basis. That is not a satisfactory way in which to manage an estate.

3. **Options to be considered**

Not applicable

4. **Issues to be taken into account**

**Policy Priorities**

The generation of capital receipts from disposals and revenue from leasings underpin the Council's wider corporate and regeneration agendas.

**Financial**

CB Property is responsible for maximising income from disposals and leasings. It will always seek to achieve the best consideration reasonably obtainable unless corporate priorities dictate otherwise.

**Legal**

The Council is obliged under S123 of the Local Government Act 1972 to achieve reasonably best consideration but can use its well-being powers to accept an undervalue not greater than £2m.

**Best Value**

CB Property will always seek to achieve Best Value property disposals.

5. **Conclusion**

The management and disposal of land is from October 2007 the responsibility of CB Property. In 2002 delegated authority was granted to the Head of Legal to dispose of land up to £250,000 in value with that value to be increased annually in line with inflation. The inflation adjusted figure is £300,000 up to April 2008. It is advised that the delegated disposal level be increased to £300,000 which gives Officers the flexibility to manage the Estate and free up Members to concentrate on strate.

Council's can now dispose of land at an undervalue not exceeding £2m. As such a decision is a balancing of pure property matters, disposal, against well-being ones, policy, it is considered that a decision as to whether or not to sell at an undervalue should always be one for Committee.
The use of Tenancies at Will can be a helpful mechanism in securing temporary lets. They do however militate against medium and longer term financial stability and do not allow the Council to recover the significant costs of repair and maintenance. Officers conclude that their potential use be noted, but should be used sparingly.

6. Recommendations

Committee is recommended to:

i) Delegate Authority to the Head of CB Property, in consultation with the Chief Financial Officer, to dispose of land up to £300,000 in value;

ii) Approve that any proposed disposal at an undervalue, statutorily not to exceed £2m, be referred to Committee for decision;

iii) Note that the use of Tenancies at Will be restricted in favour of formal leases.

iv) Note that Ward Members will be notified by CB Property of land sales before issuing formal instructions

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