

Disposals at an Undervalue – Evaluation Matrix

PROCEDURES

This document is to be read in conjunction with the attached AMG report dated 1st October 2004.

****Please note if the undervalue is for a large amount or disposal an AMG report seeking permission to let/sell at undervalue may be required prior to the undervalue procedure****

On receipt of request for undervalue you need to:

1. Arrange for a rental/disposal valuation (either in-house or independent depending on circumstance)
2. Once market valuation is agreed, send a copy of the letter coloured blue below to the proposed tenant/purchaser and await response, they can claim up to 90% (minimum value of rechargeable undervalue is £25).
3. A consultation is needed with Local members, Internal departments (client and any others it may affect), state the market value and the % undervalue the group is seeking. If this is objected to you need to establish what % the client department would approve and inform the proposed tenant/purchaser.
4. Once comments are received, a report needs to be drafted (templates are under "Committee" file and then "Lead Member") and this is then passed to Ceri M Jones for circulation, at this point an initial letter is drafted to Kevin Emmitt (contact details below), any queries that are raised from this will be sent directly to the writer to answer.
5. Once the report is approved the writer then compiles a Record (templates are Committee file and Lead Member) and this copy is then sent to Ceri M Jones and Kevin Emmitt. Kevin will require his within 21 days of the outcome.

Rental undervalue

- You will need to quote in the report if the undervalue is to be backdated to the beginning of the lease/tenancy at will/ tenancy agreement etc.
- You will need to state if there are any rent reviews and if the undervalue will be applicable for the whole term, unto the first rent review or no. years (if only to help a group set up initially).

Kevin Emmitt (Welsh Audit Office)
Audits email address for reports:

kevin.emmitt@wao.gov.uk

This was drafted for a disposal undervalue letter:

I would suggest we promptly appoint an independent valuer for comment in preparation for the proposed undervalue, which will be subject to AMG and Lead Member approval and to ensure compliance with the RICS UKGN5 Local Authority Guidance note of land for less than best consideration, RICS Valuation Standards, January 2008 6th edition.

This is the standard letter we send out for rental undervalues, the main requirements stay the same.

Further to our discussion regarding undervalues the following information applies.

Any undervalue in rent would have to meet the approval and support of the Client Department, Local Members and Lead Member. Please also note that the final report will be sent to the Welsh Audit Office, who have a right to request further information and may raise objections if deemed appropriate.

Please indicate your proposed amount of undervalue requested, this can be up to a maximum of 90%, this is subject to the support of the Client Department within Denbighshire County Council, Local Member(s), Welsh Audit Office and any other relevant department if applicable.

To allow us to consider any application for under value grant aid the following mandatory information would be required by letter:-

1. A copy of the Groups constitution.
2. Confirmation that the Group is a non-profit making body and have a constitution with community objectives.
3. A copy of the Groups business plan or evidence that the Group can maintain the asset to a Council set minimum standard.
4. The Group meets the criteria of the community strategy.

Also, the following information to support the Groups compliance with the economic, environmental and social well being requirements are (minimum of 3 must be met):-

1. Estimate of the number of jobs to be created.
2. Details of how the Group delivers a Leisure Service to *****.
3. Details of economic benefits to ***** , as a consequence of the Group.
4. Social Benefits to ***** , as a consequence of the Group.
5. Provision of healthy living activity.
6. Details of environmental benefits to ***** , as a consequence of the Group

In your response to the Council please forward a copy of your proposed Business Plan.

Please note, the word "group" is used as a general term and covers Voluntary Bodies, Community Associations, Sports Clubs, Town Councils, Community Councils, Residents Associations, Charitable Bodies and Trusts. A copy of the Community Strategy is available from David Davies who can be contacted on 01824 706146.

REPORT TO ASSET MANAGEMENT COMMITTEE

REPORT BY: COUNCILLOR JULIAN THOMPSON-HILL LEAD MEMBER FOR
PROPERTY & ASSET MANAGEMENT

DATE: 1ST OCTOBER 2004

SUBJECT: DISPOSALS AT AN UNDERVALUE – EVALUATION MATRIX

1.0. Decision Sought:

1.1 That Members consider the evaluation matrix (appendix 1) for the assessment of disposals at an undervalue by way of a lease or freehold sale.

2.0. Reason for seeking Decision

2.1 Cabinet on 20th April 2004 approved the policy guidance and criteria for disposal at an undervalue (appendix 2).

2.2 A matrix was to be developed for approval by AMC to assess and score proposed disposals at an undervalue.

2.3 It is recommended, in the cases of freehold disposals the level of undervalue shall be a maximum of 50% of the unrestricted market value. In the cases of leaseholds, it is recommended that grants awarded towards the rent shall be a maximum of 90%, subject to a minimum charge of £20.00.

2.4 The undervalue awarded shall be by way of a grant and funded by the portfolio holding department. The market rent shall be shown in the lease and the grant shall be recorded by way of a “side letter” which shall be personal to the parties, except in exceptional circumstances.

2.5 Any grant towards the rent of over £10,000 per annum shall be subject to a service level agreement, to be monitored by the relevant portfolio manager.

3.0 Power to Make the Decision

3.1. S123 of the Local Government Act 1972 gives the power to dispose of land. General Disposal Consent (Wales) 2003.

4.0 Cost Implications:

4.1 Loss of potential capital receipt or rent.

5.0 Financial Controller Statement:

5.1 The Council has an urgent need to generate additional capital resources to fund the many desirable schemes already identified, together with the increasing backlog of major maintenance works to property, highways and structures. Great care needs to be exercised when considering asset disposals at an undervalue to ensure that the proposed use of the asset has a higher Council priority than

the works that could otherwise have been funded from a disposal at full market value.

6.0 Consultation carried out:

6.1 Asset Management Group supports the evaluation process.

7.0 Implications on other Policy Areas including Corporate

7.1. Community Strategy, Service and Corporate Asset Management Plans.

8.0 Recommendation

8.1. That Members approve the evaluation matrix and all requests for an undervalue are evaluated in accordance with the matrix (appendix 1) and the maximum undervalue to be granted shall be as set out in 2.3 of the report.

Report Author: JP

Date:

Ref:

Amendment Number:

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APPENDIX 1

General Disposal Consent (Wales) 2003 Assessment of requests for disposals at an undervalue

Mandatory requirements:

1. The applicant shall be a Charity or have a constitution with community objectives and be non profit making body.
2. The undervalue shall be less than £2 million – action Valuation & Estates.
3. The District Auditor shall be notified of the Council's intention to dispose of an asset under the consent – action Valuation & Estates.
4. Business plan to be inspected and approved or evidence supplied by the applicant that it can maintain the asset to a Council set minimum standard.
5. The project meets the criteria of the community strategy.
6. The project has regard to the Service Asset Management Plan/ Corporate Asset Management Plan.

Economic, Environmental and Social Wellbeing requirements: To be completed by relevant portfolio manager.

The project complies with the economic, environmental and social well being requirements (minimum of 3 must normally be satisfied, in exceptional circumstances, only one to be met)

- Job creation
- Environmental improvements
- Local service delivery
- Social benefits
- Provision of healthy living activity
- Economic benefits

APPENDIX 2

POLICY GUIDANCE AND CRITERIA FOR DISPOSALS AT UNDERVALUE BY VIRTUE OF THE GENERAL DISPOSAL CONSENT (WALES) 2003 (“GDC”) AND OTHERWISE

1. The GDC applies to disposals by authorities by freehold sale and leases over seven years where the undervalue does not exceed £2 million and where the disposal promotes or improves the economic, social or environmental well being of the whole or any part of any area or of any persons resident or present in an area. If the disposal exceeds the £2 million threshold Assembly consent must be sought.
2. When seeking to rely on the GDC the District Auditor should be conferred with prior to the making of a decision to dispose at undervalue. Accordingly, the Auditor's views must be sought and those views must be included in the Consultation section of any Report seeking authority for a disposal. The District Auditor must also be notified within 28 days of the making of the decision and justification for the disposal will need to be given.
3. It is proposed that the Policy Guidance and Criteria for the GDC shall also apply to any disposal by the Authority of land or premises at undervalue.
4. Valuation advice should be sought as to the likely amount of the undervalue and any subsequent Report should set out the unrestricted and restricted values.
5. The County Clerk and the Corporate Director Resources shall confirm (where appropriate) that the requirements of the GDC have been met in any particular case.
6. Any disposal being considered, should have regard to:
 - i. Community strategy and agreed Council policy.
 - ii. Service Asset Management Plans.
 - iii. Corporate Asset Management Plan.
 - iv. The Council's fiduciary duty to local people.
7. The relevant Portfolio Manager must submit supporting information (to include monetary and non monetary benefits) with the usual draft Report to AMG. Such information should include details of e.g. job creation, environmental improvements, local service delivery etc. AMG shall develop, for approval by AMC, a matrix against which proposed disposals can be assessed and 'scored'.
8. Any request for a disposal at an undervalue should generally be by way of a long lease, unless there are significant financial benefits to a freehold sale.

9. The relevant Portfolio Manager must confirm that no alternative funding is available and that the proposed use of the asset could not be achieved unless a disposal at undervalue were made.
10. All requests for disposal at an undervalue must be accompanied by a business plan and/or detailed evidence of how the asset will be maintained after disposal.
11. If the grant towards the rent is over £10,000 per annum, the relevant Portfolio Manager shall monitor compliance with the terms of the grant by way of Service Level Agreement or other method as appropriate.
12. Where a disposal is by way of lease, Members are requested to confirm which of the following options they wish to adopt as policy for making a grant towards the rent:
 - i. the grant towards the rent to be for the whole term of the lease (even in cases of long lease terms) and for the rent to be increased annually in line with the retail price index; or
 - ii. the grant to be linked where appropriate to rent reviews, (it is usual for example for long leases to have rent reviews every five years).
13. The market rent shall be shown in the Lease and the grant shall be recorded by way of a 'side letter' which shall be personal to the, parties except in exceptional circumstances.

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