

Council Policy on Land and Premises for the Voluntary and Community Sector

Contents

The Council is one of the largest landowners in the borough. This policy includes the full range of the Council's relationship with the voluntary and community sector in respect of land and premises and includes:

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Section 2 – Allocation of land and premises

Section 3 – Property leases

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Section 6 – Reserving property for development for community benefit

Section 7 – Short term occupation of Council property

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Who This Policy Applies To

Voluntary organisations

Community groups

Tenants and residents groups

Faith groups

Housing Associations

Co-operatives and social enterprises

Sports organisations

Charities

based in or delivering services in Sandwell

and non-governmental

and value driven, for the social good

and non party political

and principally reinvest any financial surpluses to further social, environmental or cultural objectives that bring a significant community benefit to Sandwell.

The above is an extract from the Council's definition of the third sector.

In the interest of consistency we have used the term voluntary and community sector or vcs throughout this policy.

The following are excluded from this policy

Managed workspace

Arrangements where vcs groups share Council accommodation with Council staff.

Schools

Allotments - occupation of allotments by allotment associations are regulated by a separate policy and are covered by a specific lease agreement.

Introduction

By working closely with the voluntary and community sector in Sandwell, the Council can help to ensure that its assets are well used for community benefit. Over the years a large number of vcs organisations have been delivering their services from Council owned land and premises.

Glossary of terms

Property: land and buildings

Accommodation: buildings

Premises: buildings

PS: Property Services

Shared priorities: the Council's and the Partnership's 3 shared priorities – Active and Well People, A Safe and Clean Place to Live and Educated and Skilled People in Employment.

VSST: Voluntary Sector Support Team

VCS: Voluntary and Community Sector

Section 1: Finding Land and Premises

The Council provides some information and advice in relation to finding property in Sandwell through the business engagement team. To access this free service contact the relocation manager (see section 9 for contact information).

As a landlord, the Council is prepared to make available some of its surplus property to vcs partners, in recognition of the value of the sectors contribution to the borough and their ability to lever in resources to improve premises or develop land.

Organisations which are looking for property need to write to the Director of Strategic Resources giving brief details of their organisation, the sort of property they are looking for (including size), any preferred location, and the proposed use. Their details will be added to a mailing list and they will be automatically advised of any premises that are available to the voluntary and community sector. The property will be allocated on the basis of the viability of the project, its links to Council priorities and any other benefits that it will bring. If the organisation is interested in a specific property PS will be able to confirm whether the property is in Council ownership and whether there are any development plans. In a very few cases the Council may not own the property but may lease it from a private landlord. PS will explore whether it is appropriate or possible to sub-let or assign the lease.

Organisations are advised to look at a wide range of options, including land and buildings which are in private ownership.

Section 2: Allocation of Land and premises

2.1 The Council reserves the right to give priority to:
use a property for its own purposes or

approach a vcs organisation(s) which may be able to use a building to deliver services which the Council supports.

Applications from a number of organisations working in partnership to share premises will be actively encouraged. Occasionally more than one voluntary organisation will express an interest in a Council property. Organisations will be encouraged to work together to explore shared use of the premises. All interested parties will be given the opportunity to submit a proposal outlining any refurbishment work and the services that they intend to provide. The timescale for the submission of the proposal will be set by PS. The Council will then select the most suitable project, bearing in mind its viability and its links to shared priorities. When the Council has selected the most suitable proposal and engaged in negotiations, no further applicants will be considered.

Section 3: Property leases

3.1 Scope of the policy

This section of the policy applies to leases on buildings that are owned by the Council.

3.2 Duration of the Lease

All leases will normally be for a maximum period of 10 years. Exceptions may be when other funders require a longer lease in order to fund capital works when a lease of up to 25 years may be given.

3.3 Break Clauses and Notice Periods

All leases will give the Council the right to give the tenant 3 months notice period for a range of reasons including non payment of rent. Voluntary sector tenants will have the right to give the Council 3 months notice in writing.

All leases will contain a break clause exercisable by the Council. In a standard 10 year lease there will be a break clause after 5 years. At this point the Council will review the following in order to decide whether the lease should continue on the same basis:

- the premises – whether buildings are fit for purpose, whether it would be cost effective to carry out any repairs etc
- the services delivered by the vcs tenant – whether these continue to support shared priorities
- the arrangements for the rent

The break clause will give the Council the right to give the tenant 6 months notice in writing.

3.4 Rental Arrangements

All organisations must pay the full market rental for the property.

3.5 Reduced Rent and Rental Subsidy

In certain circumstances, if an organisation can demonstrate that either it is unable to afford some or all of the rental or the funding would be better spent

on service delivery, the Council will consider renting the premises on the basis of £1 per annum. This will only apply if the voluntary organisation is providing a service which meets a shared priority and is supported by the relevant Council theme or division. Organisations must submit an explicit written request for a reduced rent before they occupy the premises. Organisations in receipt of a reduced rent must comply with the Council's Conditions of Funding for Reduced Rent/ Rent Subsidy and will have an agreed statement that summarises the use of the premises and the activities linked to the reduced rent.

3.6 Repairing Responsibility

Model leases have been developed for both full repairing and shared repairing situations. A premises management guide is available for voluntary sector organisations. These documents can be found on the Council's website: www.sandwell.gov.uk/voluntarysectorsupport

Wherever possible the Council intends to lease the building on a full repairing lease, (the voluntary organisation will be responsible for all repairs, including external, structural and internal).

However, under exceptional circumstances the Council will be prepared to consider sharing responsibility for repairs (in broad terms, the Council is responsible for structural and external repairs, the voluntary organisation is responsible for internal repairs). Examples of this could include the renewal of a long standing shared repairing lease where the vcs tenant has no resources to meet the liabilities of a full repairing lease and no prospect of re developing the building.

3.7 Subletting

Sub-letting will only be allowed with the Council's written consent and must be on the same terms as those set out in the lease between the Council and the voluntary organisation (the main tenant).

3.8 Alterations or Improvements to the Property

Alterations or improvements to the property will require consent from the Council as landlord.

3.9 Opportunity to Purchase the Building

If the premises are in isolated ownership and are not required by the Council for its own redevelopment purposes the voluntary organisation in occupation may have the opportunity to purchase the property at full market value. The sale of the property would be subject to Council approval. No grant will be available from the Council towards this.

The Council will value the property in order to determine the market value. If it wishes, the voluntary organisation will be able to appoint an independent valuer at its own cost to negotiate on its behalf.

Section 4: Land leases

4.1 Scope of the policy

This section of the policy applies to leases on pieces of land that are owned by the Council.

4.2 Duration of the Lease

Land leases can vary from 5 to 99 years, depending on a number of factors including future plans for the site or the area, proposed use of the site, cost and value of any building erected on the site etc.

4.3 Rental Arrangements

All organisations must pay the full market rental for the land.

4.4 Rental Subsidy

In certain circumstances, if an organisation can demonstrate that either it is unable to afford some or all of the rental or the funding would be better spent on service delivery, the Council will consider renting the land on the basis of £1 per annum. This will only apply if the voluntary organisation is providing a service which meets a shared priority and is supported by the relevant Council theme or division. Organisations must submit an explicit written request for a reduced rent before they occupy the site or when the lease is reviewed. Organisations in receipt of a reduced rent must comply with the Council's Conditions of Funding for Reduced Rent.

4.5 Opportunity to Purchase the Land

If the land is in isolated ownership and is not required by the Council for its own redevelopment purposes the organisation leasing the land may have the opportunity to purchase the land at full market value. The sale of the land would be subject to Council approval. No grant will be available from the Council towards this.

The Council will value the land in order to determine the market value. If it wishes, the voluntary organisation will be able to appoint an independent valuer at its own cost to negotiate on its behalf.

Section 5: Asset Transfer

Section 5 Policy on Asset Transfer

5.1 Asset transfer is the transfer of council assets, primarily land and buildings, to voluntary and community sector organisations.

The Council recognises that asset transfer, under the right circumstances, can bring about a number of local benefits including:

the development of enterprise opportunities

contribution to the long term financial stability of vcs organisations,

improvement of local buildings

real savings in repairs and premises management costs,

enables the leverage of resources for local regeneration.

5.2 The council will consider asset transfer applications from vcs organisations (or consortia of voluntary organisations) on a case by case basis. Asset transfer will

usually be done through a 99 year lease at a reduced rental. Applications will go through an assessment process.

In addition, from time to time, as part of its asset management process, the council will identify property which may be suitable for asset transfer and will seek vcs partners who may wish to take on and develop the asset.

5.3 The council's approach to asset transfer will include all types of council property, not just community centres. In principle this could cover land, old schools, car parks etc. However, the council will reserve the right to earmark some property for its own purpose, including sale or redevelopment purposes. Land and property held by Housing will not be considered for asset transfer

5.4 Proposed use of the building must:

- deliver and support the priorities of the council
- be for the benefit of the whole community and help to build community cohesion

5.5 Applicants must:

- have a track record of at least 5 years of delivering services in Sandwell. (In the case of a new consortium we would look at the track records of the member organisations)
- be local organisations based in Sandwell, with a local management body
- meet the requirements of Sandwell's third sector definition
- have a constitution that will allow property to be leased or owned
- have a current working relationship with and the support of at least one of the council's service areas
- have at least 3 years worth of accounts
- deliver or support the priorities of council

The only exception will be if the council initiates the asset transfer. This will enable the council to build a partnership with an organisation that does not necessarily meet all of the above requirements, in order to maintain or develop services from a particular building.

Organisations without the necessary track record may explore the option of a shorter lease of 10 years during which they can develop the necessary track record.

Section 6: Reserving property for development for community benefit

6.1 Introduction

From time to time organisations will have medium to long term plans regarding property but need the time to develop these. The Council will respond as positively as possible within the parameters set out below:

6.2 Scope

Any allocation of land or premises for development by voluntary and community sector organisations for either

Large scale regeneration projects

Religious buildings
Community buildings

Allocation of the land and/or property will be for a specified period of time and will enable the vcs organisation to prepare a full business plan and secure funding for the development. Failure to proceed within the agreed timescale may result in the withdrawal of the allocation.

Should the project not proceed, the land and/or premises allocation will be withdrawn.

6.3 Strategic context

For a land or premises allocation to be made there must be clear benefits for the Council in one or more of the following areas:

Clear links to shared priorities

Improved services

Community cohesion

Increased efficiency and effectiveness

Cost savings (such as cost of repairs, securing the site etc)

Links to the Council's Asset Management Strategy

Improved services

Community cohesion

Increased efficiency and effectiveness

Cost savings (such as cost of repairs, securing the site etc)

Links to the Council's Asset Management Strategy

6.4 Key principles

Market value: The disposal of the land and/or premises, whether by freehold sale or long lease, will be at market value.

Timetable: When a specific site and/or premises are allocated to an organisation, a timetable for completing the project will be set by the Council in consultation with the organisation. This will enable the organisation to raise funds, seek planning permission and proceed with construction or refurbishment. During that period the price will be fixed (very similar to an option agreement) and no other offers will be accepted unless there is failure to progress the project. The timetable should include:

- Agreement to Lease/ Dispose (including default, breach of agreement and step in procedures)
- Feasibility study
- Business plan
- Agreed specification for building
- Statutory approvals (planning permission, building regulations etc)
- Evidence of secured funding
- Commencement of works;
- Practical completion
- Issue of Lease/License/Disposal for occupation and use

Failure to progress the project: should the development not proceed within the agreed timetable the Council will review the position and will reserve the right to withdraw the allocation of the site.

6.5 Funding

Under normal circumstances no funding will be made available towards the cost of acquiring freehold interest, premium payment for the grant of a long lease, rent subsidy or for any works

The only exception may be made will be if:-

there are very clear benefits to the Council arising from the project, including revenue savings for commissioned services or improved energy efficiencies **and** the Council is a partner agency in the planning and delivery of the project **and** a request for financial support has been made from the outset **and** a financial contribution is expected by an external funder.

6.6 Decision making process

Organisations will be expected to complete an application form which sets out a detailed plan for the proposed project and identifies how it will bring benefits to the Council. The application for site allocation will be assessed by a group of officers made up of representatives from: Property Services, the Voluntary Sector Support Team, the Communities Unit and the Supporting Theme. The assessment will focus on the viability of the project and the benefits it will bring to the Council and the wider community. The application will also go to the Council's Land Development group to inform the land development programme.

Section 7 - Short Term Occupation of Property

7.1 Occasionally organisations want to use Council property on a temporary basis.

This may be because the organisation has a short term project or activity or because the Council has development plans for the site or the area.

Organisations seeking temporary occupation must submit a written request to Corporate Property.

7.2 Short term occupation will be covered by a licence to occupy the property for up to 12 months. The licence may be renewed.

7.3 Rent

The voluntary organisation will be expected to pay the market rental for the property.

7.4 Costs incurred by the Council

The voluntary organisation may be expected to cover any costs that are incurred by the Council such as gas and electrical safety inspections.

Section 8 - Fees

The process of leasing or purchasing land and or premises from the Council is likely to entail legal and surveyors fees. This will also occur when tenants apply for consent from the Council for example to alter or improve the property. The Council and the voluntary organisation will each be responsible for paying their own legal and surveyor's fees.

Section 9 - Contact information

For further information on the Council's Policy on Land and Premises for the Voluntary and Community Sector contact:

Sandwell Partnership

Heather Chinner heather_chinner@sandwell.gov.uk

Voluntary Sector Support Team:

Karen Williams karen_williams@sandwell.gov.uk

Assets and land:

Stefan Hemming Stefan_hemming@sandwell.gov.uk

For information and advice in relation to finding property in Sandwell contact:
Sandwell Business Growth Team business_growth@sandwell.gov.uk

9th March 2011.

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Contacts updated November 2023