



ST AUSTELL TOWN COUNCIL

LAND DISPOSAL POLICY

Background

The Town Council is the custodian of approximately 17.4 hectares of land in the Parish of St Austell which it holds for the people of St Austell and future generations.

The Town Council holds this land under various legal powers and for a range of purposes. Land may be held either on a freehold or leasehold basis and may be subject to covenants and legal restrictions on its use. Some land is legally held under formal trust deeds for the people of St Austell and cannot be disposed of.

The Cornwall Local Plan includes policies relevant to the provision, protection, use and design of open spaces. To support the Cornwall Local Plan, Cornwall Council has adopted a Cornwall Green Infrastructure Strategy and an "Open Space Strategy for Larger Towns in Cornwall". The latter was adopted in July 2014 and identified that the St Austell area has a 23% lower than average level of formal open space; the third lowest of the 16 areas studied.

This is reinforced in Cornwall Council's Site Allocations DPD adopted in November 2019 that states *"St Austell has one of the lowest levels of formal open space amongst Cornwall's main towns; as well as lower than average levels of public sports provision and teenagers' equipped spaces"*

The National Planning Policy Framework (NPPF), revised in 2024 encourages more housing and higher density developments which makes the expansion of St Austell inevitable and the retention and creation of public open space even more important.

Power to dispose of land

The Town Council has a general power to dispose of land which it owns by way of a sale, lease or tenancy under Section 127 of the Local Government Act 1972. There are, however, certain rules to be observed. Land cannot be disposed of under this section (except by way of short-term tenancy) for a price less than the "best that can reasonably be obtained" unless the consent of the Secretary of State has been given. A General Disposal Consent removes the requirement to seek specific consent where the local authority considers that the disposal will help it to secure the promotion or improvement of the economic, social or environmental wellbeing of its area and the difference in value is less than £2million.

A local council must not dispose of any land consisting or forming part of an open space unless beforehand it gives public notice of its intention to do so for two consecutive weeks in a local newspaper and considers any objections which may be made to it.

Where a local council disposes of land which is held for the purposes of S.164 of the Public Health Act 1875 (pleasure grounds) or in accordance with S.10 of the Open Spaces Act 1906 (duty to maintain open spaces and burial grounds) the land becomes freed from any trust arising solely by virtue of its being held in trust for the enjoyment of the public. This cannot apply to either the western half of Poltair Park or Truro Road Park which are subject to additional restrictions under charitable and/or private trust agreements.

Where land has been acquired specifically for allotments, the consent of the Secretary of State is still required for any subsequent disposal thereof for any other purpose (Allotments Act 1925).

Land which the Town Council cannot dispose of

- The Town Council cannot dispose of any land which is held in a formal trust such as at Poltair Park and Truro Road Park (Open Spaces Act 1906)
- Land designated as allotment land (Allotments Act 1925).

Land which may be disposed of

In view of the shortage of public open space in St Austell, the Council will seek to maintain and create new public open space where possible and affordable. It will only consider disposing of land if one or more of the following apply:

- Land where the benefit(s) of disposal outweighs the environmental or amenity value lost to the general public;
- Land for which it is in the public interest to change the use of or management of the land;
- The disposal will permit the purchase of more or better land for public or environmental benefit;

Considerations

- The strategic value of the land (eg: affordable housing site)
- Recovery of legal expenses associated with a disposal
- Officer resource implications for disposal
- The potential for development of the site
- Reputational impact of disposal
- If applicable, the cost associated with the lifting of any overage clauses;
- In the case of "open space" disposals the Town Council should consider the precedent potentially set which might lead to requests for more land sales in an area and the long-term cumulative effect this might have on the environment, public access and trees/wild areas;
- Where more than one party expresses an interest, an auction or tendering exercise may need to be considered;
- As part of any disposal, consideration should be given to fencing, drainage, services and access to the land being disposed of and adjoining land;

- Contact with the emergency services to establish if the disposal of the land would impact on their emergency plans. Eg: Air Ambulance landing site.

Procedure for disposal

Where a request to purchase a parcel of land owned by the Town Council or the Town Council decides to offer land for sale then the following will apply:

1. The Finance and General Purposes Committee should consider the matter in the first instance and determine whether the Council should explore the matter further;
2. If the Finance and General Purposes Committee recommends that the matter should be explored further, the Town Clerk will obtain a valuation for the land from the District Valuer providing the following details:
 - A description of the land to be sold with a site plan;
 - The name and address of the buyer (if known);
 - The purpose for which the land is held;
 - The purpose for which the land is to be used;
 - The title and the section of the Act authorising its sale;
 - Whether the land has the benefit of planning permission and if so when it was granted and what for;
 - Particulars of any covenants or other restrictions to be imposed on the transaction;
 - Any other relevant information.
- 3 The Council considers the District Valuers report and decides whether to proceed to advertise the potential disposal of land;
4. If Members wish to proceed:
 - the Council will advertise the potential disposal of land for two consecutive weeks in a local newspaper;
5. The Council considers any representations received and decides whether to proceed with the disposal of land;
6. If Members wish to proceed:
 - the Council will appoint a suitably qualified solicitor to represent its interests in any land transactions and ensure that land registry records are updated.