

GUIDELINES FOR NOMINAL/PEPPERCORN RENT

Power to grant nominal/peppercorn rent

Local Authorities are required to obtain best consideration when disposing (including selling and leasing) of land. However under Circular 06/03 of the Local Government Act 1972 – General Disposal Consent (England) 2003 and Section 32 of the Housing Act 1985 – General Consent for Disposal 2005, and in the case of housing land, provided certain specified conditions are met, disposal of non-housing and housing land at less than best consideration can be authorised where the undervalue is for an amount of less than £2M provided the following factors are formally considered when the decision is made:

- The purpose should be to secure the promotion or improvement of the economic, social or environmental well being of the area
- The Council must have robust and consistent decision making processes in place in order to regulate undervalue disposals
- Clear and realistic professional valuation advice must be obtained to verify the actual amount of any proposed undervalue transaction
- Consideration of accountability and fiduciary duty to local people
- Consideration must be given to the Community Strategy
- Compliance with all normal and prudent commercial practices
- Compliance with State Aid Rules

Circumstances under which nominal/peppercorn rent might be considered

As a rule the council will not consider nominal/peppercorn rents for properties held within the investment or social portfolios for which there is a good demand in the commercial market. Where that is not the case a nominal/peppercorn rent might be considered for the following reasons:

- To retain a facility
- To contribute to the regeneration of an area
- To access external funding
- To tenant an otherwise empty building
- To support a volunteer run activity
- To host a partner service
- Exceptional circumstances that support SCC strategies and policies

It should be noted that the Council's commercial property (i.e. let to third parties) is categorised as either investment property or social property under Corporate Property Standards. Whilst temporary nominal/peppercorn rental arrangements on investment property are possible the prime purpose of holding this property is for long term strategic, planning or regeneration objectives and it is let to third parties to produce the best financial return. Social property, however, is let to third parties who provide a direct service to the community in support of Council objectives and services. Nominal/peppercorn rents are more likely to apply to Social Property therefore than investment property due to the different reasons for which they are held.

Length of arrangements

Long term leases at a nominal/peppercorn rent should include provision for financial renegotiation by way of a rent review or break clause. Long term leases which fix the rent contractually for the whole of the term granted with no review provision should be avoided unless it is a requirement of an external funder or necessary to secure a tenant.

Process to obtain approval for a nominal/peppercorn rent

An officer proposing a nominal/peppercorn rent will first need to gain the agreement of the relevant property holding portfolio. For *all* investment property this is Resources portfolio. For social property it is the service portfolio that holds it and to which the income accrues that would bear the loss of income, and this will vary according to the property.

A report will then need to be prepared seeking Cabinet approval as there are no powers delegated to officers to grant new leases or sell freeholds at less than best consideration so it is a Members decision.