



# Saltash Town Council



**Policy/Procedure:**

**Policy for acquisition or sale of land and property**

**Date of Adoption:**

**March 2018**

This is a Policy or Procedure document of Saltash Town Council to be followed by both Councillors and employees.

<b>Current Status</b>			
<b>Version</b>	1	<b>Approved by</b>	FTC
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<b>Responsible Committee</b>	BS & FP S/C	<b>Review date</b>	As required

<b>Version History</b>			
<b>Date</b>	<b>Version</b>	<b>Author/Editor</b>	<b>Comments</b>
08.02.2018	1	RL/ajt	Refer to attached LTN45 & 45a

<b>Review Record</b>				
<b>Date</b>	<b>Type of Review</b>	<b>Date of completion</b>	<b>Summary of actions</b>	<b>Completed by</b>

## Policy for Land and Property Acquisition or Sale

1. All land or property appropriated, transferred, gifted, purchased, disposed or sold by STC will be subject to the requirement of the Local Government Act 1972 (NALC Legal Topic Note LTN 45 attached).
2. STC will consider land and property acquisitions and requests for sale on a case by case basis subject to:
  - A risk assessment to include financial, operational and environmental issues.
  - A solicitor's search.
  - A current market valuation report.
3. Any funds received from the sale or acquisition of land will ordinarily be ring fenced for community projects in that estate or community area.

### Appendix:

LTN 45

LTN 45a

(Click on documents to open in full when connected to network)

### Version History

Date	Details
September 2018	Note: Words importing the masculine gender only shall include all other genders and vice versa.

## **DISPOSAL AND APPROPRIATION OF LAND BY LOCAL COUNCILS**

### **General Rules on the Appropriation of Land**

- 1 Section 126(1) of the Local Government Act 1972 provides that any land belonging to a local council which is not required for the purpose for which it was acquired, or has since been appropriated, may be appropriated for any other purpose for which the council is authorised by statute to acquire land by agreement.
- 2 S.126(2) empowers a parish meeting in a parish without a separate council to appropriate land not required for its original purpose, or which has since been appropriated, for some other purpose approved by the Secretary of State.

### **General Rules on the Disposal of Land**

- 3 S.127 (1) of the Local Government Act 1972 provides that a local council, and the parish trustees of a parish without a council acting with the consent of the parish meeting, may dispose of any land held by them in any manner they wish, but subject to the restrictions set out below.
- 4 A 'disposal' includes not only an outright sale of the freehold, but also the grant of a lease or assignment of a term of a lease or an exchange of land. Caselaw includes within the definition of a 'disposal' an option to purchase the freehold, an option to purchase a lease or an option to renew a lease.
- 5 Pursuant to s.270 of the 1972 Act, 'Land' is defined as 'any interest in land or any easement or right to or over land.' Thus, for example, the grant of a private right of way over council land is treated by s. 127(1) as a disposal of land. It is NALC's view that in respect of local authorities in England, a disposal would not however include a licence or permission (written or oral) to use land. If permission to use land is withdrawn, there is no legal interest in or over land to remain in occupation. The

## **DISPOSAL OF CHARITY LAND BY LOCAL COUNCILS ACTING AS SOLE OR MANAGING TRUSTEE**

- 1 This note will explain the rules and procedures around the disposal of charitable land by a local council which is the sole or managing trustee of a charity. As sole or managing trustee the local council is responsible for compliance with the charity's founding document and general charity law. See LTN 28 Basic Charity Law for more information on the duties and responsibilities of a charity trustee.
  
- 2 Where land is subject to a charitable or similar trust restrictions apply under sections 117 to 121 of the Charities Act 2011 (2011 Act). But a disposition of land does not require the consent of the Charity Commission if:
  - a. the disposition is not to a 'connected person' (as defined by sections 118 and 350 to 352 of the 2011 Act ) e.g., a trustee of the charity; a donor of land to the charity; a child, parent, grandchild, grandparent, brother or sister of such trustee or donor; an officer, agent or employee of the charity; a spouse or civil partner of any of the foregoing persons; a person carrying on business in partnership with any person falling within any of paragraphs an institution controlled by any such person or two or more of any such persons; a body corporate in which such persons have a substantial interest (in excess of one fifth of the share capital or of the voting power);
  
  - b. the trustees, before entering into an agreement for sale, or for a lease (except a 'short tenancy' which is the grant of a tenancy for a term not exceeding seven years or the assignment of a term which, at the date of assignment, has less than seven years to run) or other disposition (e.g. the grant of an easement), of land must:
    - i obtain and consider a written report from a qualified surveyor (a fellow or professional associate of the Royal Institution of Chartered Surveyors or a person who satisfies other requirements prescribed by the Secretary of State) who is reasonably believed by the charity trustees to have ability and experience to value the land in question (the information which a surveyor's