



Estates Acquisitions and Disposal Policy (1141/2020)

Abstract

This policy highlights the process in which Sussex Police estates property is acquired or disposed of on behalf of the Police and Crime Commissioner for Sussex (PCC).

Policy

1. Introduction

1.1 The counties of West and East Sussex, which includes the unitary authority of Brighton and Hove, comprise almost 1 million acres of land on England's south coast. The Sussex Police portfolio is located across the two counties and covers over 100 individual sites with a gross internal floor area in excess of 100,000 sqm.

1.2 As with any large scale business, the property portfolio is required to change in order to meet the strategic and operational needs of the organisation. The 5 year Estates Strategy provides the direction in which the estate will develop over the coming years.

2. Scope

2.1 This policy highlights the process in which Sussex Police estates property is acquired and/ or disposed of on behalf of the Police and Crime Commissioner (PCC) for Sussex. This will ensure that assets are dealt with effectively, in order to benefit the Force and its local communities. This policy is subordinate to the Scheme of Delegation and the Financial Regulations.

3. Policy Statement

3.1 It should be noted that all acquisitions and disposals should be approved by the PCC prior to Sussex Police staff or representatives entering into any legally binding property agreements. Purchase or disposal of freeholds/leaseholds also requires formal approval by the PCC.

Procedure

1. General Principles for disposal

1.1 The proposed transaction must fall within the PCC powers.

1.2 The PCC may do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of the functions of the PCC. This power includes the acquisition and disposal of land, including entering into lease arrangements.

1.3 Disposal of land surplus to the PCC's requirements is likely to be conducive or incidental to the exercise of the PCC's functions, as realising the value of that surplus asset better enables the PCC to deploy resources for the purpose of carrying out the functions of the PCC.

1.4 Therefore the following transactions dealing with land will generally be permissible:

- Sale of freehold property.
- Sale or transfer of leasehold property.
- Taking or granting leases or sub-leases.
- Acquisition of property for operational or administrative purposes.
- Grant of licences to occupy.
- Development of premises for Police use.

1.5 Whether the disposal or other of land is "conductive or incidental" to the exercise of the PCC's functions is a question of fact in each case. If there is any doubt as to whether a particular disposal or other dealing with land is "conductive or incidental", the PCC and/or the Estates Team should obtain relevant legal professional advice.

1.6 As a rule, any activity that is directly related to or incidental to policing or crime reduction and is aimed at furthering these objectives will fall within the powers of the PCC.

1.7 The PCC and the Chief Constable each owe legal duties relating to the financial operation of the PCC's office and Police Force respectively, including the effective and efficient application of resources to ensure value for money to the public. Any transaction that falls outside of these considerations will need to be objectively justified as furthering the interests of Sussex Police.

1.8 If the nature of a transaction cannot be considered as calculated to facilitate or conducive or incidental to, the functions of the PCC, this could render a transaction ultra vires or beyond the powers.

1.9 If there is any doubt as to whether a transaction fulfils this criteria, then specific legal advice should be obtained on the proposed terms.

2. Property Disposals

2.1 Approval to enter into negotiations to dispose of Sussex Police estates assets requires the following process to be followed (see Sussex Police Property Disposals flowchart).

2.2 The majority of sites within the Sussex Police estate are of relatively low individual value and are small in size e.g., police boxes, There are medium-sized police stations such as Chichester, Bognor and Hastings. However, there are a number of larger, high value sites based in Lewes (HQ), Brighton, Haywards Heath, Kingstanding, Worthing

(Centenary House) and Crawley. An appropriate process must be followed in each case which is proportionate to the property in question.

2.3 The property must be declared as surplus to Sussex Police requirements, via the five year Estates Strategy and or by the Executive Director Commercial and Financial Services/Chief Constable/ PCC.

2.4 For high value or sensitive sites (i.e. some town centre, large scale or high profile sites) these sites should be considered outside of the usual 5 yearly Estates Strategy periods.

2.5 In addition to the requirement for a disposal to be conducive or incidental to the exercise of the PCC's function, the disposal of a property/site should only be considered where one or more of the following criteria applies:

- It makes no positive contribution to Sussex Police's service provision (operational requirement).
- Cost of investing is not beneficial, due to substantial investment needs.
- It has no clear potential for future service delivery or strategic development purposes.
- Is vacant and is likely to remain vacant for the foreseeable future.
- Its disposal may allow for the redesign and layout issues of the retained part of the estate to be adequately addressed.
- Its disposal may allow access to existing or neighbouring land for re-development.
- Any reputation risk elements.
- In the interests of good estate management.

2.6 Provided analysis confirms that the disposal criteria identified in paragraph 2.5 applies, then irrespective of value, an option appraisal report should be obtained from the retained property consultant containing a summary of the options available for disposing of the property and the advisor's recommendation.

2.7 The appraisal should include consideration of the value, timescale, planning betterment and risk in delivering the disposal and any enhanced value that may be possible before marketing the property. Regard should be had to the issues set out in Achieving Value.

2.8 For higher value disposals, before marketing the Estates Team should consider getting a title review undertaken by legal advisers on any issues which may impact the value of the property.

2.9 The options for disposing of the property should be objectively considered by the Estates Team who will consult the PCC on the content of report and the preferred approach as required by the Scheme of Delegation and Financial Regulations.

2.10 Should the property or site be exposed to the market, then this should be marketed for a sufficient period in which to fully expose the property/site to the market and in nearly every case should be subject to local and national marketing initiatives being undertaken.

2.11 A clear written record should be made as to the option selected and the reasons why. If the options for the disposal in question include possible collaboration with another emergency service (as defined in the Policing and Crime Act 2017), a record must be made as to the consideration of collaboration and a reason must be given as to why the collaboration option was either accepted or rejected which should be accompanied by an independent marketing or valuation report.

2.12 Heads of Terms should be agreed for every disposal and negotiated by an experienced surveyor (preferably with emergency service or blue light experience) being at least a Member of the Royal Institution of Chartered Surveyors.

2.13 Any off market enquiries should be referred to the Surveyor for assessment before being followed up, but in any case, should the property/site become available as a consequence of 2.5 above, then the opportunity should be fully exposed to the market to establish best value or if not, an independent report from a Chartered Surveyor confirming that it would add little or no value in exposing the property to the market.

2.14 The PCC shall consult their surveyors and agents as to an appropriate policy for valuation and sale of properties 'off market', which would include for example, restrictive covenants, overage provisions and consider adding a premium to any valuation, such as 10% to avert an accidental sale at under value.

2.15 In the event that an asset highlighted for disposal is deemed strategically or operationally essential by a public sector partner, an alternative disposal plan can be considered provided that such disposal fulfils the financial responsibilities of the PCC. It is not within the power of the PCC to enter into a transaction to subsidise other public services, unless it is calculated to facilitate or be conducive or incidental to the functions of the PCC.

3. Site Sales

3.1 All sites require the appointment of competitively tendered national estates agents and usually an advertisement in the national property press, e.g. Estates Gazette.

3.2 The marketing appraisal report shall be a full site evaluation and site redevelopment appraisal report which will need to be carried out by an approved multi-discipline consultancy. Formal written approval for sale is required from PCC, prior to appointment of agents or advertisements in the national press.

4. Public Sector Partner Purchaser of Surplus Policy Property

4.1 In the event of another public sector service provider wishing to purchase a Sussex Police property, the local District Valuer will normally be appointed by the PCC and Sussex Police, in order to carry out a formal open market valuation. This valuation will not be binding and either party may subsequently seek alternative commercial valuations, as required. It is a rebuttable presumption that the PCC will dispose of the property for the highest valuation obtained and taking conditional and unconditional scenarios and associated risks into consideration.

4.2 In the event that the local District Valuer is unable to provide an open market valuation, within a reasonable time, the PCC will be at liberty to obtain an independent valuation from a Royal Institution of Chartered Surveyors Registered Valuer, who has in excess of 10 years' experience within the local market.

4.3 If an agreement on the sale price cannot be reached between the two parties, the PCC will consider whether there exists another purchaser able to purchase the land for the price of, or closer to the price of, the initial valuation. If no alternative purchaser exists, nor is it reasonable to locate one or delay the sale, the PCC will consider a further joint appointment of an approved independent commercial valuer and a sale sum based upon this valuation or the 'mean' average of all the valuations, assuming the properties most appropriate planning use.

4.4 This process will be deemed as "Best Value" for both of the public sector parties.

4.5 It should be noted that either party can withdraw from negotiations at any point until the formal exchange of contracts has been reached. It is not envisaged that Exclusivity Agreements will be entered into by either party.

4.6 Refer to Sussex Police Property Disposal to Public Sector Parties flowchart for additional guidance.

5. Planning Authority Notification

5.1 For property which is earmarked for disposal, Sussex Police Estates and Facilities Department should inform the local authority planning department and any regional public sector space management committees of its intention to sell the property prior to the site being marketed.

6. Property Acquisitions

6.1 The PCC will acquire property where it facilitates, or is conducive or incidental to the exercise of the functions of the PCC.

6.2 The opportunity to rationalise and centralise estate assets may require the acquisition of sites and properties from the market place and via other public sector service providers.

6.3 Any proposed purchase of land or buildings must be in line with the approved Scheme of Delegation, Financial Regulations, Sussex Police Estates Strategy, Estates Boards, Future Workplace Oversight Board and the PCC, prior to any interest being declared on a site, regardless of value. It is expected that a full site, structure and environmental survey will be carried out prior to purchase, with a comprehensive business case being provided and approved by the Estates Board and Chief Officers Meeting (COM). (See Sussex Police Property Acquisitions).

6.4 Sussex Police should only consider acquiring land and or property where:

- It enables the Force to deliver its corporate objectives and operational requirements.
- Will contribute to the provision of key services to the customers.

- Will deliver economic, social or environmental benefits.
- Assists in the delivery of strategic development.
- Provides a sound financial investment.
- Is in the interests of good estate management.

7. Leases and Licences

7.1 All new lease and licence negotiations will require a draft proposal/business case to be approved by the Executive Director Commercial and Financial Services, Chief Constable, PCC, Oversight Board prior to external discussions or expressions of interest.

7.2 As with the disposal or acquisition of all property, land leases and licences, regardless of value and length, are required to be approved by the Estates Board and/or Executive Director Commercial and Financial Services, PCC prior to appointment of any agents, legal services companies, consultancies or advertisements in the external press or other publications.

7.3 For all leases, Sussex Police will produce standard Heads of Terms which will be used as the basis for negotiations between Sussex Police and all other public sector or commercial space providers. These Heads of Terms will include the standard length of term, capital investment levels, service charges and service level agreements/key performance indicators with the landlord/space provider for cleaning, security, telecoms and other such service items and agreed with a recommendation report from a Chartered Surveyor.

7.4 The standard details of the Heads of Terms and the subsequent leases will be approved via the PCC especially those leases which are valued over £500k over the lifetime of the lease and are made 'under common seal'.

7.5 Refer to Sussex Police Property Lease and Licences flowchart for guidance.

Team: Estates and Facilities