

BARNSELY METROPOLITAN BOROUGH COUNCIL

This matter is a Key Decision within the Council's definition and has been included in the relevant Forward Plan

**Report of the Executive Director
Place**

COMMUNITY ASSET TRANSFER POLICY

1. Purpose of Report

- 1.1 The purpose of the report is to seek Cabinet approval for the revised Community Asset Transfer Policy (CAT) taking into account the recommendations made by the Scrutiny Task and Finish Group and the Council's Asset Management Strategy 2017-2020.

2. Recommendations

- 2.1 **That Cabinet approve the revised Community Asset Transfer Policy for use in future Community Asset Transfers.**

3. Introduction

- 3.1 The principles of the existing Community Asset Transfer arose as a consequence of the Quirk Review, which was the foundation for current Government policy regarding Community Asset Transfer and a strong advocate of community management and ownership of assets. The transfer of powers to Communities and Area Councils allowed the way in which services were delivered to be diversified. Where budgets are constrained the transfer of community assets continues to play an important part in involving the community in assisting in the delivery of services in a practical and supported manner in line with the Council's Asset Management Strategy at the time.
- 3.2 The Council's original Community Asset Transfer Policy was endorsed by Cabinet in January 2013 (Minute Cab.30.1.2013/6.3). The policy explained what was considered to be an asset transfer and set out how asset transfers would be achieved providing a clear framework in support of the transfer of land and buildings from the Council to local community organisations.
- 3.3 Since the implementation of the CAT Policy Barnsley Council has completed a number of community assets allowing the community to deliver services required at a level appropriate to and within the communities where need is greatest.
- 3.4 The Revised CAT policy sets out the process that the Council will follow in the continued delivery of services by the Community in support of the Council's Asset Management Strategy and Corporate Plan.

3.5 Recent examples include Penistone Leisure Centre and Athersley Community Shop. The benefits of these transfers are far reaching in terms of engaging the community. They have enabled the community to take pride in their communities within which they live, to provide assistance and guidance within the local community in getting people back into work, facilitated in persons recovering their fitness and health, tackling loneliness and provide services assisting those less able to become independent.

4.0 Proposal and Justification

4.1 In order to maintain alignment with the Council's Asset Management Strategy 2017-2020 the existing policy has been reviewed It now sets out a clear process in applying for a Community Asset Transfer and the criteria for those wanting to make an application. It also sets out the how the Council can provide high level guidance around support of organisations that can assist in that process and information relating to specific land and buildings where an application is made to assist the Community organisations seeking to acquire a Community Asset.

4.2 The revised policy does not affect any existing arrangements in place.

4.3 It is intended that the updated CAT policy (Appendix A) be used to manage all future requests to ensure a consistent approach in dealing with applications.

4.4 The new policy sets out a five stage process ;
Stage 1 – Formal expression of interest
Stage 2 – Invitation to submit a formal application
Stage 3 - Evaluation of submission and formal decision at Director level
Stage 4 - Planning and implementation
Stage 5 – Monitoring and outcomes
Without the applicant completing each stage progress will not be made to the next stage and the process or outcomes at each stage will be clearly communicated to the applicant.

4.5 A CAT continues to be defined as a transfer of land or buildings from the Council's ownership into the stewardship and/or ownership of a Town/Community Council or third sector organisation. The "transfer" of the property asset could be by way of ;

- Licence to occupy
- Lease not exceeding 50 years
- Freehold transfer, subject to an Asset Lock arrangement.

4.5 The tenure offered will be determined on a case-by-case basis, but the Council will endeavour to meet the applicant's funder's requirements wherever possible and appropriate in terms of length and terms of the lease required to satisfy grant bodies.

- 4.6 The Council's new CAT policy is underpinned by the following key principles:
- Community Need
 - Supporting the Council's aims and objectives as identified in the Asset Management Strategy 2017-20.
 - Transparency in decision making and
 - Sustainability in the future operation of the asset.
- 4.7 The revised policy is not intended to be controlling or restrictive but ensures that community organisations are focused on the commitment required to maintain a building and to realise the social and economic benefits that the CAT will provide.
- 4.8 Asset Management presented to the Scrutiny Task and Finish Group (STFG) the process around CAT together with examples. The STFG have visited both of the facilities listed in 3.5 above and have subsequently provided a number of recommendations as part of their investigations which have been considered as part of this report.
- 4.9 The recommendations of STFG will be incorporated in the revised CAT Policy as points of guidance based on the following terms;
- Maintenance liabilities of assets to be transferred - This will be clearly set out in the heads of terms provided to the community organisations prior to transfer. Access to condition surveys or information relating to running costs associated with specific assets will be made available where appropriate and caveated dependant on the proposals moving forward.
 - That the Council should continue to undertake cyclical maintenance inspections of the assets transferred. - This is more difficult due to staff resources and constrained budgets. Dependant on the findings of such inspections there may be a financial consequence to either the community group or the Council. Assistance and guidance will be provided to the Community Organisations throughout the process of an Asset being transferred beyond which it will be the responsibility of the community Organisation to take a lead in.
 - That a summary guidance is developed around support and organisations that can assist in the Community Asset Transfer process - Direction will be given throughout the application process where support can be obtained by the community organisation. A tenant manual has been prepared that sets out useful information for all tenants who rent property from the Council and this will be issued to those who complete a community asset transfer.
- 4.10 In assessing all applications the business plan submitted in support of the CAT application needs to demonstrate the group have the ability to manage the type of land or property they are committing to.
- 4.11 Whilst the Council is committed to the successful transfer of assets to community based organisations it recognises that running a building is an onerous commitment and does not want them to be deterred from engaging in the CAT process because they are apprehensive about the risks of transfer.

Therefore the Council will normally be willing to accept a transfer back, without penalty or payment, if the community organisation no longer wishes to manage it and it has been safely managed. Where it has not been well maintained a dilapidations liability may well apply. In either circumstance where a building is returned it would normally be sold on the open market, unless required for council purposes.

- 4.12 In determining the terms and rent of a lease or licence or terms and purchase price relating to the freehold disposal of an asset, it is proposed that this should be determined by the anticipated socio- economic benefits, the condition of the building, requirements of funders and affordability. It does not rule out a market rent, or low start up rent with ratcheting uplift or a discounted rent or purchase price. Any freehold disposal will be subject to an Asset Lock arrangement.
- 4.13 Local Authorities are required to obtain best value when disposing (including selling and leasing) of assets. However under circular 06/03 of the Local Government Act 1972 – General Disposal Consent (England) 2003 leasing at less than best consideration can be authorised where the value is less than £2 million and it is granted to secure the promotion and improvement of the economic and social well-being of the citizens of the Borough. Any lease or disposal granted at less than best will be subject to obtaining further cabinet approval.
- 4.14 Community Asset Transfer will only be made to a formally organised group. Transfer to a community organisation will maximise the likelihood that the transfer will be successful and sustainable in the long term. This will also ensure the promotion of equality and social inclusion in terms of the use of the land or buildings transferred.

5.0 Consideration of Alternative Approaches

- 5.1 That the Council do nothing and continue using the existing CAT policy.
- 5.2 The Council could implement the revised CAT policy prepared to provide a clear process in applying for a Community Asset Transfer and provide high level guidance around support of organisations that can assist in that process.

6.0 Impact on Local People

- 6.1 The proposal would ensure the continued involvement, inclusion and empowerment of community organisations in the local community in providing delivery of local services within the community. The Council also recognises that working in partnership with community based organisations can promote volunteering, help achieve economic growth and promote the social and environmental well-being of the Borough.

7.0 Financial Implications

- 7.1 The granting or lease/licences and disposing of assets in accordance with the revised CAT policy whilst not realising a capital receipt will reduce the Council costs associated with maintaining specific properties thus reducing the Council's maintenance costs.
- 7.2 Dependant of the terms of the transfer the Council may be in the position of retaining elements of maintenance liabilities until the community organisation reaches a point where they can take full responsibility for the asset. Effectively creating a staged transfer process allowing a community organisation to establish itself or test its viability in relation to a specific building.
- 7.3 The financial benefits of CAT where the Community organisation is successful in delivering the social and economic benefits are far reaching but the value attributable to these benefits are difficult to place a figure on. The relevant services may want to consider these benefits in considering a CAT to a specific community organisation.
- 7.4 Service's strategies and community organisation's business cases will need to consider an approach to building running costs and maintenance responsibilities will be made clear through the lease/licence arrangements. Lease or disposal arrangements will need to include suitable break clauses, claw back provisions or covenant if the use changes or the asset is subsequently sold.
- 7.5 As a result of the recommendations made in this report there are no direct financial implications associated with this proposal. Applications will be considered on a case by case basis out of which any financial applications will be considered.

8.0 Employee implications

- 8.1 There are no implications for BMBC employees as a result of this recommendation.

9.0 Communications implications

- 9.1 There are no communications implications for BMBC as a result of this recommendation.

10.0 Consultations

- 10.1 Local ward members have been consulted on the proposed revised CAT Policy and support the proposals as detailed in this report.
- 10.2 Financial Services Manager and the Insurance and Taxation Manager on behalf of the Director of Core Services have been consulted and details are shown in paragraph 7 of the report.

10.3 The findings of the Scrutiny Task and Finish Group have been incorporated into this report and used in support the revised Community Asset Transfer Policy. The recommendations around support and guidance have been incorporated into the application process.

11.0 The Corporate Plan and The Council's Performance Management Framework

11.1 The revised CAT process brings into line the continuing development, consolidation and expansion of community resources as detailed in the Council's Corporate Plan.

12.0 Promoting Equality and Diversity and Social Inclusion

12.1 The revised CAT policy sets out a clear, transparent and fair framework for decisions. Community Organisations who make an application for an asset transfer will need to demonstrate that their plans are sustainable and have the support of the local community or a service need within the community they are serving.

12.2 Equality Impact Assessment will be undertaken for specific schemes where it is appropriate to do so.

13.0 Tackling the Impact of Poverty

13.1 As part of a community organisations application for a CAT of either land or buildings the impact of the services to be provided would be contained within the business plans submitted as part of the CAT application. The anticipated outcomes in terms of supporting those in poverty would be consulted with the appropriate services as part of the CAT process. The Athersley Asset Transfer referred to in 3.5 above is a prime example of how CAT can impact on poverty in providing for those in need and directing them to relevant services enabling them to secure employment.

14.0 Tackling Health Inequalities

14.1 As in 13.1 above the community organisations making an application for land and property where outcomes tackle health issues as part of their application for CAT will be considered as part of their business plan. This is demonstrated in the example of Penistone Leisure Centre where the community have taken on the local sports centre and provide a hub from which people can keep fit, meet others and keep healthy on a number of levels, encouraging persons to keep fit or conquering loneliness.

15.0 Reduction of Crime and Disorder

15.1 In renewing the proposal the Council's obligations under the Crime and Disorder Acts have been fully considered.

15.2 It is considered that the use of the land and property through the CAT process will develop a sense of community ownership and engagement which could assist in addressing issues of crime and disorder that may exist in communities.

16.0 Risk Management Considerations

16.1 A detailed assessment of risk will be an integral part of each application evaluation. Following recommendations made in the Quirk Report the Government produced guidance on the management of risk and a toolkit for local authorities to use in assessing transfer proposals – Department of Communities and Local Government, “Managing Risks in Asset Transfers” is highlighted as recommended reading in the CAT policy.

16.2 The Quirk Report states that “the benefits to the community management and ownership of public assets can outweigh the risks and often the opportunity costs in appropriate circumstances. And if there is a rational and thorough consideration of these risks and opportunity costs, there are no substantial impediments to the transfer of public assets to communities”.

16.3 It is important to recognise that there are inherent risks in all courses of action in relation to asset management. Not transferring an asset to a community organisation may mean that the opportunity to develop social and economic and environmental benefits may be missed out on. Through the process of CAT it has been demonstrated through examples contained herein that community based organisations can meet the needs and generate value for communities that justifies any risks involved.

16.4 To mitigate risk leases/licences will include both landlord and tenant break clauses, allowing both parties to terminate the agreement subject to 6 month’s written notice. This will ensure that the Organisations are not entering into an agreement that is potentially too onerous to fulfil and will give the council the opportunity to terminate the agreement in the event that the tenants breach the terms of the lease.

16.5 Any freehold disposal will be subject to an Asset Lock arrangement to protect the asset where it has been transferred at less than best for a specific community purpose.

17. Health, Safety and Emergency Resilience Issues

17.1 Any CAT application will have to be assessed alongside and give full consideration to current Health and Safety legislation.

18. Compatibility with European Convention on Human Rights

18.1 This report recognises the promotion and importance of equality, diversity and human rights for all members of the local community and the wider borough.

19. Conservation of Biodiversity

19.1 There are no issues arising from this report.

20. Glossary

21.1 CAT – Community Asset Transfer

21.2 STFG - Scrutiny Task and Finish Group

21. List of appendices

21.1 Appendix A – Community Asset Transfer Policy

22. Background Papers

22.1 Correspondence regarding this matter is held on the files in Asset Management – not available for inspection, contains exempt information.

If you would like to inspect background papers for this report, please email governance@barnsley.gov.uk so that appropriate arrangements can be made