

WORCESTERSHIRE'S REVISED COMMUNITY ASSET TRANSFER POLICY AND PROCESS – OCTOBER 2013.

1. DEFINITION OF COMMUNITY ASSET TRANSFER

Community Asset Transfer (CAT) is a long-term leasehold or freehold asset transfer arrangement entered into voluntarily by the Council with an incorporated Community Organisation or Parish and Town Council, at a discount to market value, to stimulate the social, economic and environmental well-being of people living and working in Worcestershire, in keeping with the provisions outlined within Circular 06/03: Local Government Act (1972) General Disposal Consent (2003)¹. An asset is defined as buildings or land owned by the County Council.

2. BENEFITS OF COMMUNITY ASSET TRANSFER

The Council recognises the potential benefits that assets can bring to the community, to the organisation proposing the asset transfer and to the Council in support of its priorities as set out in its Corporate Plan. Changing ownership or management of assets can create opportunities for communities to extend the use of a building or piece of land – increasing their value in relation to the number of people benefiting and the range of opportunities they offer. It can also prevent the emergence of derelict or neglected land and buildings and act as a catalyst for social, environmental and economic regeneration. The process will also support 'Act Local in Worcestershire' by stimulating the direct involvement of local people in shaping and regenerating their communities, and can be a catalyst for local volunteering and increasing community cohesion. Asset transfer can stimulate new social markets amongst Community and Social Enterprises, and can strengthen the capacity of community organisations to take on the delivery of public services and develop as community enterprises. It can also lever in additional resources, which would be unavailable to the Council.

3. LOCAL AND NATIONAL POLICY CONTEXT

Worcestershire County Council, along with all of Worcestershire District Councils adopted a Community Asset Transfer policy in November 2009. Since the Council adopted its policy the landscape has changed, and the original policy needs to be revised in the light of these changes.

- **Localism Act 2011** - This introduced a so called "Community Right to Bid", more properly known as Assets of Community Value. Listing an asset under the Right to Bid would provide similar benefits to community groups (i.e. time to prepare a business case and one to one negotiations) as the Council's previous Community Management and Ownership of Assets Policy. Community groups can request that

¹ Section 123 of the Local Government Act 1972 imposes a legal obligation not to dispose of land (other than tenancies of seven years or under) for consideration "less than the best that can reasonably be obtained" unless the Secretary of State gives consent to such a disposal at undervalue. The General Disposal Consent 2003 gives blanket general consent of the Secretary of State to under value disposals, subject to certain pre-conditions clearly linked back to the well-being powers in the LGA 2000:

- The Council "considers that the purpose for which the land is to be disposed is likely to contribute to the achievement" of any or all of the promotion or improvement of the economic, social or environmental well-being of the whole or any part of its area, or of all or any persons resident or present in its area
- The undervalue is no more than £2m.

an asset (land or buildings) is listed as being of community value if it has furthered the social well-being or social interest of the local community now or in the recent past, and it is realistic to think that this benefit will continue. The asset can be in public or private ownership. Once listed the owner must inform the District Council of their intention to sell. Community Interest Groups (CIG) with a local connection have 6 weeks to request in writing to be treated as a potential bidder for the asset. The full moratorium period (6 months) then comes into force. The moratorium is to give the CIG an opportunity to raise funds/put together a business case to purchase the asset. During the whole moratorium period the only sale that can be made is to a CIG (i.e. one which either did, or would have been eligible to, trigger the full moratorium) at a price agreed between the parties. At the end of the moratorium period the owner can sell to whoever they choose (i.e. not necessarily to the community interest group which registered an interest).

- **Public sector spending constraint** – driven by the need to reduce the national deficit all public sector spending is extremely constrained, and Councils are facing significant reductions to their budgets which necessitate them disposing of some assets, rationalising the use of assets and delivering services in cost effective ways. Disposing of assets at the best possible market price is an important means by which WCC is able to raise income from capital receipts to re-invest in county-wide front line services.
- **Act Local in Worcestershire** – WCC has developed 'Act Local in Worcestershire', a framework for developing and supporting localism in the county. There are examples across the county where management or ownership of assets have transferred to community organisations in support of specific objectives. These usually relate to a wider review of services that may form part of the Council's "Community Offer" i.e. encouraging residents to get actively involved in shaping and delivering services that are important to them. Act Local takes account of the Council's financial position, and recognises that without local involvement some services may not be sustainable in the long-term.
- **A "One Town" place based approach to use of assets** - the County Council has undertaken a number of "One Town" place based asset reviews. These reviews enable WCC, working with a wide range of partner organisations, (e.g. public sector partners, the Parish and Town Council, community organisations and others), to look at all of the public assets in a particular place. A solution is then devised in partnership that makes the best possible use of the available assets, releasing surplus assets for disposal at market value.

4. THE POLICY

This policy seeks to balance the particular benefits of any proposal to manage or own an asset from a community organisation or Parish and Town Council, against the wider benefits to the community of Worcestershire through the expenditure on other services or priorities made possible as a result of a 'commercial' disposal at the best possible market price.

Any proposed asset transfer must:

- Promote social, economic or environmental wellbeing, **and**
- Support the County Council's [Corporate Plan](#), **and**
- Aim to create the widest public value.

The Council will consider proposals and negotiate terms and conditions for Community Asset Transfer on a case by case basis. The decision to transfer an asset will not be considered as setting a precedent. Each asset transfer will be judged on its own merits and the detail of the transfer arrangements will be arrived at through individual negotiations.

The Council will operate related procedures on the basis of providing a *proportionate response* that takes into account the interests of the Council, as well as those of Community Organisations and the wider community. In doing so, it will have regard to its statutory obligations (in particular, its fiduciary, and equalities duties) at all times.

When a number of parties express interest in an asset the Council will encourage collaboration but competition will be treated as an opportunity to ensure that the Council selects the most appropriate transfer partner.

The Council will make a decision on whether and on what terms to transfer management or ownership of an asset to an eligible organisation by applying the criteria set out in Section 9 below.

5. EXCLUSIONS TO THE POLICY

Certain exclusions to this policy apply:

- This Community Asset Transfer Policy only applies to assets that have been declared surplus by the Council, and have not been identified for future investment value, use for direct service delivery or as part of service remodelling or reconfiguration programme
- Where it is agreed that assets will be transferred to community ownership as part of a service reconfiguration programme, the documentation that supports this policy can be used where it is helpful to do so
- Where the Council has already agreed a "One Town" place based solution to local asset use this Community Asset Transfer Policy will not apply to assets where CAT has not been identified as the best use of the asset as part of the "One Town" process. Community Organisations and Town and Parish Councils may wish however to consider listing surplus assets under the Right to Bid, so they can seek to purchase the asset at market value.
- The Council is not able to transfer land/property where the undervalue is more than £2,000,000 without obtaining consent from the Secretary of State, therefore, only in exceptional circumstances will transfer of assets above this value be considered. Undervalue is the difference between the "unrestricted" or market value of the asset and the value of the proposed transfer agreement
- Any licence agreement allowing a community group to have shared use of a building with other groups or individuals is not classed as a community asset transfer under this policy. Any licence agreements would be subject to the use of delegated powers by the Head of Property Services in consultation with the Cabinet Member with Responsibility for the Property portfolio (currently the CMR for Transformation and Commissioning).

6. BASIS FOR ASSET TRANSFER

- The Council will offer land and buildings for transfer on a proportionate basis i.e. undervalue will be set on a case-by-case basis in relation to the type of property, a robust assessment of the organisation's business plan, and the extent of community benefit to be derived. This may range from peppercorn rents through to moderate discounts, where the opportunity cost of foregoing market rental or market sale is considered more significant
- Any transfer at below market value will need to comply with the provisions outlined within Circular 06/03: Local Government Act (1972) General Disposal Consent 2003

(see footnote 1) and State Aid² rules, this assessment will form part of the transfer process

- The Council will discuss with the organisation what sort of transfer will be most suitable to meet the needs and expectations of the community group and local people. The Council will however generally pursue long-leasehold arrangements when considering asset transfer. Although freehold is not ruled out, any transfer proposal will need to make a strong case that freehold is a necessity for success, and provide reassurance that community benefit will be maintained in the long-term
- Where below market value is agreed the Council will apply appropriate legal restrictions to the transfer to ensure the asset remains in community benefit and for the purpose agreed
- The Council will transfer, through the lease, full repairing, insuring, maintenance and utilities obligations
- The Council will not normally act as guarantor for the organisation when transferring an asset (or subsequently)
- The organisation will be called upon to maintain property in keeping with statutory provisions and good practice (e.g. in relation to Health and Safety)
- The organisation will be permitted to issue a sub-lease or management agreement
- The organisation will be expected to produce a statement of community benefit on a quarterly, six-monthly or annual basis for up to 3 years (although this will not constitute a Service Level Agreement) - to track its progress in delivering against its Full Business Case
- The organisation at the end of the lease will be expected to return the asset in no worse condition than when originally transferred
- The Council, in accepting return of an asset, will not normally assume any responsibilities or liabilities of the organisation.

7. ORGANISATIONS WHO ARE ELIGIBLE TO USE THIS POLICY

This policy may be used by **Parish and Town Councils**

This policy may be used by **Community Organisations** which meet the following eligibility criteria:

- Organisations that are **non-statutory**
- Organisations that operate in the **not-for-profit** sector and are **non-profit distributing** (i.e. it must reinvest any surpluses generated to further its intended aims)
- Organisations whose activities **benefit residents of Worcestershire**
- Organisations which are **appropriately constituted**, for example, a registered charity, not for profit or charitable company, a community interest company, a community benefit society (Industrial and Provident Society for the benefit of Communities (IPs)) or a co-operative society
- Organisations constitution should **allow for the management/ownership of buildings and provision of services**.

² State Aid refers to forms of assistance from a public body, or publicly-funded body, given to selected undertakings (any entity which puts goods or services on the given market), which has the potential to distort competition and affect trade between member states of the European Union.

8. PROCESS FOR APPLICATION

In order to ensure appropriate transfer, a staged procedure has been adopted.

Stage One – Formal Expression of Interest.

Organisations interested in a Community Asset Transfer should write to the Head of Property Services identifying the asset that they wish to manage or own.

Organisations will be sent this policy, initial information about the property and asked to complete an Expression of Interest form. This information is requested in order to enable the Council to make an initial assessment of the proposal.

The Expression of Interest should be returned to the Head of Property Services by the date specified.

Stage Two - Detailed Business Case

Following consideration of the Expression of Interest the organisation will be required to produce a Detailed Business Case to support the asset transfer request.

Further explanation of the decision making process can be found at Section 10 below.

9. CRITERIA FOR COMMUNITY ASSET TRANSFER

The asset transfer decision involves making a choice between:

- Benefits to respective parties e.g. Community of geography or interest, the organisation and the Council, generated by the transfer of the asset to the community
- Raising of capital receipts for future investment in direct service provision
- Potential loss of existing income
- Opportunity costs arising from transfer.

The Council will need to be satisfied of the social, economic or environmental value of the proposal, and of its alignment with the Council's priorities as set out in the Corporate Plan. The Council will need to be convinced that the interests of the community will be better served by discounted transfer than open market lease or sale.

To enable this decision to be made the requests for the transfer of Council owned assets would be considered against the criteria below. The evidence will be provided through the Expression of Interest (Eoi) and/or Detailed Business Case (DBC):

The Organisation must:

ORGANISATIONAL CRITERIA	EOI	DBC
i. Meet the eligibility criteria set out at 7 above	x	
ii. Be engaged in promoting economic, environmental or social well-being in Worcestershire or providing a service of community benefit in line with the Council's Corporate Plan	x	x
iii. Be community-led i.e. its governance arrangements demonstrate that it has strong links with the local community of geography or interest, and that members of the community are able to influence its operation and decision-making processes		x

ORGANISATIONAL CRITERIA	EOI	DBC
iv. Demonstrate good governance through open and accountable processes, with adequate quality, monitoring, evaluation and financial management systems		x
v. Demonstrate capability of managing an asset and delivering services i.e. has relevant skills and experience and a high level of organisational capacity		x
vi. Demonstrate management experience and/or expertise		x
vii. Demonstrate a track record of delivering services, or in the case of a new organisation, a proven track record of the key individuals involved and a robust business case	x	x
viii. Demonstrate a clear purpose and understanding of the activities it wishes to deliver	x	x
ix. Demonstrate it has the skills and capacity within, or available to, its managing body to effectively deliver services and manage the asset		x
x. Demonstrate that the organisation is sustainable		x
xi. Demonstrate how they will embrace diversity, work to improve community cohesion and reduce inequalities		x
xii. Satisfy the Council that they are able to maintain the building satisfactorily after transfer		x
xiii. Be able to provide copies of the accounts of the organisation, and other information requested by the Council during the course of this application	x	x

The proposed use of the asset must:

CRITERIA RELATED TO THE PROPOSAL	EOI	DBC
i. Assist in the delivery of the priorities set out in the Council's Corporate Plan	x	x
ii. Have the support of the local County Councillor	x	x
iii. Demonstrably provide economic, environmental or social benefit in Worcestershire – who will benefit, how, and over what time frame is clearly expressed through the business case	x	x
iv. Be unable to be achieved other than through the transfer of the asset	x	x
v. Be financially viable and sustainable	x	x
vi. Demonstrate there is an evidenced need and demand for the proposal	x	x
vii. Demonstrate that there is evidenced local support for the proposal. The Council recognises that communities may be geographical or communities of interest. In some cases there may be tensions between the two. The Council will look for evidence of positive engagement with local geographical communities, but accepts that in some cases a further balance may be between the interest group involved and local support for a proposal	x	x
viii. Ensure extensive reach into the community and be open to all. This can include organisations that serve a particular geographical community or a particular interest		x

	group (e.g. youth services) but in all cases organisations will be expected to demonstrate how they will ensure that they are inclusive and that the widest possible public value is being obtained		
ix.	Demonstrate how the premises will be used and managed on a day to day basis, and how good use of the asset will be made	x	x
x.	Maximise opportunities to ensure sustainability, for example, through income generation, social enterprise and the hiring of space and facilities		x
xi.	Demonstrate compliance with legislation/statutory requirements arising from ownership or management of the building and/or running a service		x
xii.	Have "in principle" support from a County Council Directorate	Achieved through the Council's Corporate Landlord Board, in consultation with the relevant Cabinet Members, approving a submitted Expression of Interest before a Detailed Business Case is developed	
xiii.	It is desirable that the proposal achieves revenue savings for the Council (e.g. a reduction in building maintenance and running costs)	Assessed through the Detailed Business Case	

The Council

The Council will provide comprehensive information about the land and/or buildings community organisations have identified for transfer in keeping with good practice and open data principles. This information will enable the organisation to understand some of the costs involved in CAT.

Information provided by the Council with the Expression of Interest will include:-

- Site plan
- Measured Building Survey Plan
- Indication of running costs.

Information provided with the Detailed Business Case will include:-

- Previous uses
- Confirmation of planning permissions
- Condition of the asset and relevant covenants.

10. DECISION MAKING PROCESS

The following table depicts the decision making process and indicative timescales involved in determining whether an asset, and the organisations proposed use of it, is viable for Community Asset Transfer and whether all the criteria detailed within this policy are met.

Indicative Time Frame (Timings are indicative and may be varied on a case by case basis)	Stage	Responsibility
Start	Community Organisation writes to Head of Property Services with Asset Transfer Request about a specific property	Community Organisation
2 weeks	Council compiles information about the asset and sends this, together with a copy of this policy and an Expression of Interest form, to the Community Organisation	Property Services
4 weeks	Expression of Interest form completed and returned by Community Organisation	Community Organisation
8 weeks	On receipt "In principle" support for the proposal sought from a County Council Directorate via Corporate Landlord Board (CLB) representative. CLB will also consider relevant information about the asset and other factors that may impact on CAT ³ . Expression of Interest assessed by Corporate Landlord Board, in consultation with relevant Cabinet Members (currently CMR for Commissioning and Transformation and CMR for Localism and Communities) and Local Member.	Corporate Landlord Board (CLB) in consultation with relevant Cabinet Members with Responsibility and local Member
2 week	CMR for Commissioning and Transformation decides that the proposal is either unsuitable for CAT, and that the proposal is rejected or that the Community Organisation is asked to prepare a Detailed Business Case (DBC) as the proposal may be suitable for CAT. This does not commit the Council to any financial support for the proposal, or to	CMR for Commissioning and Transformation

³ The sorts of considerations that will be taken into account include but are not confined to: are any other organisation affected by the ownership of the asset; are there any other known circumstances directly relevant to potential transfer or any conflict with other legal or regulatory constraints; are there any other known circumstances affecting the asset that would make it unsuitable for the organisations purposes; are there any wider known public interest concerns that could impact on the sale/transfer of the asset; is use of the asset for the organisations purpose proportionate (for example with the size and value of the asset); is there another asset that would better meet the organisations purpose.

	asset transfer. Council compiles further information about the asset.	
	If the proposal for CAT is unsuitable, the reasons are communicated to the Community Organisation	Head of Property Services
6 months	If the proposal may be suitable for CAT the Community Organisation prepares Detailed Business Case	Community Organisation
8 weeks	Assessment of Detailed Business Case by a cross Council Panel with relevant expertise, convened by the Corporate Landlord Board on a case by case basis. This assessment will include an Equality Impact Assessment screening and a consideration of risk from a Council perspective. Panel makes a recommendation to accept or reject CAT proposal.	Corporate Landlord Board convened Council Panel
TBC	Recommendation of rejection or acceptance of CAT proposal and proposed level of discount referred to Cabinet Member with Responsibility for Commissioning and Transformation for decision, in consultation with the CMR for Localism and Communities, Local Member and Head of Property Services.	CMR for Commissioning and Transformation
TBC	If proposal is agreed heads of lease or sale to be agreed with community organisation and legal and finance officers.	Council and Community Organisation
TBC	If proposal is rejected Head of Property Services to notify the organisation that the proposal is not suitable for asset transfer and the reasons for this.	Head of Property Services

11. HELP AND ADVICE

Worcestershire County Councils [Changing Futures Fund](#) helps Voluntary and Community Sector organisations to develop their organisational capacity. It connects groups with experts who guide organisations through what can often be complex issues. One of the support packages available is "New Ways of Working". This package includes support to organisations wanting to undertake community asset transfer. Further information, including an application form, can be found on the website.

Locality's Asset Transfer Unit is a specialist national agency offering grants, advice and support to organisations interested in community asset transfer. Organisations should visit: mycommunityrights.org.uk

The [Building Calculator](#) tool can help community groups estimate the whole life cost of taking on the management and running of a building.