

Appendix 2

Framework for the transfer of surplus land and property to parish councils, community groups, or the Third Sector

Purpose

The purpose of this strategy is to set a transparent and positive framework to enable where appropriate asset transfer from the Council to parish councils, community groups or Third Sector organisations.

Due to the diverse nature of the Council's property holdings which includes land, buildings, and structures it is clear that one policy will not fit all circumstances. However, a number of common themes will apply e.g. nature and capacity of the applicant, adoption of a robust options appraisal, assessment of risks and sustainable business cases, such exercises of essential before contemplating the transfer of any asset. This framework details these themes.

National Context

There is a clear commitment from central government under the Localism Act 2011 to the transfer of ownership and management of public sector land and assets to other organisations. Transfer is seen as a means to achieve a range of key objectives, from promoting civil renewal, active citizenship and improving local public services to tackling poverty and promoting economic regeneration.

Council's Disposal Policy

The Council has an Acquisition and Disposal's Strategy and that document must be considered in conjunction with this policy.

Aims of Asset Transfer

The Council's property portfolio includes land, buildings and other structures, held to support direct service delivery, support delivery by partners, stimulate economic activity and regeneration and support the Council's budget. Through the ownership of assets it achieves a variety of different economic, regeneration, social, community and public functions. For some of these assets community management and ownership could deliver:

- Benefits to the local community
- Benefits to the Council and other public sector organisations
- Enhanced use
- Benefits for the organisation taking management/operation

Therefore the Council will seek the following benefits from asset transfer:

- Community empowerment
- Area wide benefits for the district
- A sustainable third sector
- Economic development and social enterprise
- Empowerment to local services
- Value for money
- Delivery of corporate objections

Criteria for Consideration of Transfer

To ensure transparency in the decision making process in relation to transfer of assets to parish councils, community groups, or third sector organisations the Council will generally adopt the following standards. The criteria to be adopted are:

a) The Applicant must be:

- Community-led, i.e. its governance arrangements must ensure that it has strong links with the local community and that members of the community are able to influence its operation and decision-making processes;
- A Voluntary and Community Sector organisation - i.e. it must be a legal entity which is:-
 - Non-governmental i.e. not part of the statutory sector.
 - It must exist for community/social/environmental benefit.
 - Non-profit distributing i.e. it must reinvest any surpluses to further its social aims / community benefits.
 - Has community benefit objectives.
 - Appropriately constituted, for example, a registered charity, a community interest company or a charitable incorporated organisation, a not for profit company, on a co-operative. Such constitution allows the management /ownership of buildings and or provision of services.
 - Demonstrate good governance by operating through open and accountable co-operative processes, with adequate monitoring, evaluation and financial management systems.
 - Can demonstrate it has the skills and capacity within or available to its managing body to effectively deliver services and manage the asset.
 - Demonstrate management experience and or expertise.
 - Management proposal includes a specific plan on health and safety issues and compliance with legislation and any statutory requirements arising from ownership or management of the building and or running a service.
- Provide revenue and capital funding plans and projections for managing and operating the asset (five years).

b) The Asset must be:

- In the freehold/leasehold ownership of the Council.
- An options appraisal has been carried out and approved by Corporate Asset Management Group to identify that the asset is suitable for community transfer as the sole or one of the viable options.
- The asset is not currently needed or identified for future investment value or use for direct service delivery.
- The asset is fit for purpose and would not impose an unreasonable liability to the third sector organisation or the Council
- Transfer or management of an asset would not be contrary to any obligation placed on the Council.

c) Proposed Use:

- Will ensure extensive and inclusive reach into the community and will be open to all.
- Will maximise opportunities for income generation to ensure sustainability, for example, through social enterprise and the hiring of space and facilities.
- There is both a need and demand for the activities being proposed and consideration is given whether or not this is being satisfactorily addressed by another organisation.
- The applicant has established how much space it requires to deliver its proposals, and how they will make good use of such facilities.
- Clear management structure demonstrating how premises will be managed on a day to day basis.

d) Business Plan and Finance

Fundamental to the success of any transfer is the applicant (s) demonstrating to the Council that they have a clear rationale backed by a robust business-case of their ability to manage the asset effectively. This needs to include an assessment of the financial and organisational capacity of the organisation. The issues the Council will consider are:

- How the need for proposed transfer and use of asset has been identified i.e. what needs will the transfer meet?
- Business case for future uses for the asset e.g. cash flow forecasts.
- Type of transfer sought and why?
- Terms of any legally binding Service Level Agreement or any other legal agreement.
- Capacity building plan and how this will be delivered.
- Details of how the proposed use of the asset will be monitored and details of 'fall back' arrangements should the transfer prove to be not sustainable.
- In terms of proposing a business case for consideration by the Council any applicant will need to clearly identify.
- The planned outcomes and benefits to result from the asset transfer.

- A community governance structure with capability to sustain asset transfer.
- Whether they would wish to start on the phased transfer of the asset and agreed milestones to justify progression to the next phase.
- Where transfer is requested at less than market value the applicant has justified and quantified the benefits to the community and the Council. The Council will separately need to satisfy that any transfer is within its legal and financial powers.
- Any sources of finance asset transfer will release or attract.
- Track record of delivering services and or managing property.
- Financial sustainability and forward planning.

Consideration by the Council

The assessment process will be managed by the Corporate Manager, Governance Assets and Public Spaces, in consultation with the Corporate Asset Management Group. In view of the diverse nature of assets within the Council's ownership, there is no one disposal methodology that suits all circumstances. However, the Council will generally transfer assets by means of leases and licenses. The nature of tenure will be determined on a case by case basis having regard to the particular circumstances of the project, strength of the applications and sustainability of the business case.

Rental/Capital Payments for Use of Assets

The decision whether to charge an open market consideration will be determined on a case by case basis. Factors influencing such a decision will include proposed uses, extent of revenue providing opportunities, and benefits to the community.

Disposal for Less than Best Consideration

The Council does have the opportunity under the General Disposals Consent 2003 to sell or lease general fund assets at less than best consideration in certain cases. Any disposals for less than best consideration would need to be transparent, justifiable and have appropriate approval. Advice will be sought from the Monitoring Officer, Section 151 Officer and a registered valuer in such circumstances.

If any disposal is at less than best consideration is pursued it will be accompanied by a legally binding service level agreement or other appropriate agreement, identifying the benefits and how there will be monitored and measures. The legal department will also identify the remedies available to both parties if the agreement is not met.

The Asset Transfer Process

The stages in handling an application for asset transfer to a parish council, community group, or third sector organisation are detailed below. Obviously, there may be variations to this process on a case by case basis and this process must be read in conjunction with the Council's Acquisition and Disposals Strategy.

- Asset identified for potential transfer either by SAMP or parish council, community group, or third sector organisation.
- Scoping with the Strategic Assets Manager to identify whether the proposal could be in accordance with relevant policy.
- If assessed by the Strategic Assets Manager that the proposed transfer could be in accordance with relevant policy, then advice provided regarding Council's expectations regarding a business case.
- The Strategic Assets Manager completes an assessment of the business case and refers to the Corporate Asset Management Group.
- The Corporate Asset Management Group makes a decision to approve, reject or refer to Cabinet.
- If a positive outcome, then terms to be negotiated and agreed between the Council's Legal Team and solicitors instructed by the parish council, community group, or third sector organisation.
- If relevant, a legally binding Service Level Agreement also agreed between the respective solicitors.
- The transfer is completed and the asset successfully transferred.