

AGENDA ITEM 11: APPENDIX G

WAVERLEY BOROUGH COUNCIL

EXECUTIVE – 30/09/2014

Title:

COMMUNITY ASSET TRANSFER POLICY

**[Portfolio Holder: Cllr Julia Potts]
[Wards Affected: All]**

Summary and purpose:

This report presents a draft Policy for the management of Community Assets Transfers (CATs) under the Localism Act 2011. By producing a policy, it is hoped that local communities interested in managing Council-owned land or property will have a template to follow that will streamline the process of transference and ensure that they are aware of the issues and expense of managing land and/or buildings.

How this report relates to the Council's Corporate Priorities:

This report relates to the Council's Corporate Priorities of **Value of Money**, by ensuring that the Council is making the most valuable use of its community assets; **Understanding our Residents' Needs**, by putting in place a policy that provides community groups with the opportunity to take on community assets for the benefit of the Borough's residents; and **Leisure and Lives**, by providing the opportunity for community sports facilities to be transferred to community groups.

Financial Implications:

The financial implications of the proposed Community Asset Transfer Policy will vary depending on many factors, such as the number of enquires from community groups, the complexity of their proposals and the type of properties involved. In addition to the officer time and other costs involved in responding to enquiries through to negotiating and preparing legal agreements, there are also ongoing costs in respect of monitoring those agreements on a regular basis.

It is anticipated that the transfer of assets to community groups will also transfer maintenance and other property-holding costs from the Council to those groups. The proposed strategy allows for the possibility of community groups being charged rent and other charges for occupying the assets. Any charges will be revenue income for the Council, and the transfer of assets under the Policy can help achieve budget savings.

It should also be noted that the transfer of some assets, either at nil rent, reduced rent or, in exceptional circumstances, freehold disposal, would result in a reduction of the Council's ability to generate revenue income from these assets.

The net effect of the above would need to be managed from within existing revenue budgets.

The financial implications of each community asset transfer being transferred would need to be detailed in individual reports as the proposals are progressed under the Policy.

Legal Implications:

Any CAT will require some form of legal agreement, from a simple licence to a freehold transfer (in exceptional circumstances). The Council's Legal Services team will be essential in producing the most appropriate documentation to meet the requirement of each individual CAT.

Introduction

1. Community Asset Transfer involves selling or leasing property to Voluntary and Community Organisations to enable local people to play a stronger role in meeting the needs of the community, including the future provision of services discontinued by the Council.
2. Community ownership and management of assets has been strongly promoted nationally and there is increasing recognition of the role it can play in enabling communities to support themselves.
3. The Council has been transferring community assets informally for many years through leases, licences and management agreements. Following requests from two clubs to acquire the freehold of their pavilions under the terms of the Government's Transfer of Community Assets scheme, it is now considered appropriate to formalise the process. While the proposed Policy should have little effect on how short leases and management agreements are undertaken, the greater level of information required for long leases in the form of business plans should help both the Council to protect its assets and community groups to recognise the difficulties they may face and to plan for the future.
4. The Executive previously received a report on 4 February 2014 setting out a set of principles for the transfer of community assets. Those principles were agreed by the Executive and Officers were asked to prepare a detailed policy for formal adoption by the Council.

Community Asset Transfer

5. The process of community asset transfer has never been systematic. In recent years a standard lease for sports clubs who manage their grounds has been developed that includes a service level agreement, but this is the exception rather than the rule. In recent years the Council has also been working with town and parish councils to transfer public conveniences to their ownership and management to enable these services to continue which could no longer be funded by the Council.

6. Through CAT the Council can **enable a redundant public building to thrive again**. As pressure increases on public finances, and public structures change, there are a growing number of public assets which no longer have a current use. These can include town halls made redundant by local government reorganisation, schools left empty by shifting demography, or courts replaced by modernisation. Many are listed buildings - thereby limiting the options for cost-effective redevelopment. At the same time, they are often centrally located at the very heart of neighbourhoods where space for community activity is at a premium.
7. CAT can also **turn a marginal public service into a viable community service**. Discretionary and heavily subsidised public services are coming under increasing pressure due to budget reductions. Councils and communities are therefore being called upon to reinvent traditional public assets and services to render them cost-effective and responsive in the modern context. In some cases, community asset transfer can provide a viable alternative by applying a different business model that is based upon multi-purpose use and social investment.
8. In some areas local authorities are exploring multiple asset transfers. These multiple transfers may be
 - Place-based: looking at the transfer of a mixed portfolio of assets in a particular local authority or smaller geographic area to underpin new community enterprises;
 - Service-led: exploring transfer options related to specific types of service. This element has strong links to service redesign and modernisation; or
 - Asset type: identifying multiple transfer options for specific types of asset such as community centres or sports facilities.
9. The benefits and risks of transfer are set out in the following table:

	Benefits	Risks
Community Organisations	Access to more funding opportunities including grants and mortgages Increased revenue streams Greater local commitment Greater autonomy	Failure to plan adequate maintenance and management costs Lack of professional advice leading to inappropriate decisions Factional fighting Loss of leading figures leading to apathy
The Council	Reduction in maintenance costs Reduction in management costs Reuse of redundant buildings Ensures assets are	Failure of community organisation leading to return of facility in worse condition requiring increased capital and revenue costs Transfer of asset at less

	continued to be used for the benefit of the community in connection with corporate priorities	than market value Loss of control of a potential future development site
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10. In the present difficult economic climate, if the Council is to ensure that communities retain facilities, it must ensure that it makes it easier for the communities to manage these facilities themselves. By doing this, not only does it reduce financial burden on the Council but it enables community organisations to access grants and other monies that would otherwise be denied to them.

11. Adopting a policy helps reduce the risk, both to the organisations and to the Council, of the transfer process. The draft Policy sets out the basis on which CATs will be undertaken. This will help community organisations to identify the requirements they must meet when requesting a CAT. In order to manage expectations, the Policy also sets realistic timeframes in which any transfer could take place.

12. The legal agreements that would formalise CATs under the Policy are the same as existing legal agreements, namely management agreements, licences, lease and freehold transfers (in exceptional circumstances). It is therefore proposed that they would be authorised on the basis of existing authorities, namely:

- Management agreements and leases under 5 years to be covered by the existing provisions of the Scheme of Delegation to Officers;
- Longer leases and freehold transfers to be authorised by the Executive.

This process of authorisation mirrors the risk and advantages that any CAT presents to the Council.

13. Annexe 1 to this report contains a proposed Community Asset Transfer Policy that follows the principles set out in the previous report to the Executive of 4 February 2014. It establishes the level of information required by the Council from community organisations in order to assess the viability and appropriateness of a CAT, allowing organisations the opportunity to put together the evidence required in advance of making an application. This should help to speed up the decision process, and ensure the consistency of decision-making in respect of CATs, to the advantage of all.

14. It should be noted by the Executive that the proposed Policy envisages freehold transfers of community assets as being viable only in exceptional circumstances. Such a policy approach enables the Council to retain longer-term control over its assets, by enabling the Council to bring control of the asset back to itself, should community organisations in the future decide that they no longer want to operate a particular asset.

15. It should also be noted that the Policy requires applicants to be either community-led organisations or a voluntary or community organisation (see page 8 of the draft Policy). This would mean that applications received from town and parish

councils seeking asset transfer would generally not be accepted, as these are bodies within the statutory sector as opposed to the voluntary or 'third' sector – at which national community asset transfer policy is aimed.

16. The Executive has previously asked Officers to explore the possibility of including 'first refusal buy-back' provisions within freehold transfers. However, such arrangements present barriers at the negotiation stage, and are also require complex legal arrangements to be put into place within the legal agreements. They also require a far greater degree of monitoring by the Council in order to ensure that community organisations follow the agreed procedures when looking to 'transfer on' the assets. The Executive is therefore advised that such provisions are not a realistic or cost-effective method of retaining longer-term control of community assets, unless considered necessary in a minority of cases.

Conclusion

17. In order to maintain community asset standards in future years, the Council needs to cede a degree of control over them to local community organisations. This is required to ensure not only that funding for the asset can be obtained but also that the community has direct control over the asset. However, there are risks in the transfer. The establishment of a Policy to transfer the assets is designed to minimise the risks and speed up the decision-making process, as well as ensuring consistency of decision-making in respect of asset transfers.

Recommendation

It is recommended that the Executive endorses the draft Policy and recommends it to the Council for adoption.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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