

PLYMOUTH CITY COUNCIL

Subject: Community Asset Transfer Policy
Committee: Cabinet
Date: 21 May 2013
Cabinet Member: Councillor Penberthy
CMT Member: Anthony Payne (Director for Place)
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Ref: ED/PP/CATP – Cabinet Report
Key Decision: No
Part: I

Purpose of the report:

The report proposes that Cabinet recommends the adoption by Full Council of the newly drafted Community Asset Transfer Policy.

Community asset transfer is fundamentally about giving local people and community groups greater control in the future of their area and their community in line with promoting the Council's Co-operative agenda. If local groups own or manage community buildings and land, such as community centres, rugby pitches, allotments or changing rooms for example, it will help foster a sense of belonging and bring together people from different backgrounds. Community ownership of buildings can also play a part in raising local people's aspirations, in enhancing the local economy, environment and have the capacity to strengthen the community, voluntary and social enterprise sector.

The Policy sets out the benefits and risks to the Council, the local policy context and impacts on other Council Strategies, who can and how to apply for a Community Transfer, the basis of Transfer and how the Council will assess each application.

Corporate Plan 2012 – 2015:

The Community Asset Transfer Policy embeds the aims of the Co-operative Council as specified in the Corporate Plan by creating a strong sense of togetherness by promoting the ownership by the community of Council assets. This includes strengthening the community and voluntary sector, encouraging greater community engagement and acting as a catalyst for social, environmental and economic regeneration.

DELIVERING GROWTH

Enhance and promote local economic activity at a local level.

Enabling the 'up-scaling' of activities that promote social – economic wellbeing within community and /or the City.

The Policy gives the ability to lever in additional resources, which would be unavailable to the Council acting independently.

RAISING ASPIRATIONS

Stimulates the involvement of local people in shaping and regenerating their communities.

Support the creation of community leaders, social capital and inspire others to improve their community.

Stimulate the involvement of local people in shaping and regenerating their communities.

REDUCING INEQUALITIES

The term 'community asset transfer' relates primarily to long-leasehold arrangements at potentially less than best financial consideration to voluntary, community organisations and social enterprises (VCOSE's).

For the purpose of the Community Asset Transfer Policy, 'local communities' can be:

- Communities of geography.
- Communities of identity, or
- Communities of shared interest.

This will include VCOSE's that enable communities and individuals to access advice and services, health and equality, community cohesion and financial inclusion including child poverty.

PROVIDE VALUE FOR COMMUNITIES

Community asset transfer will become integrated within Council practice, as an option for dealing with under-utilised or surplus property assets. It will also fulfil an enabling role in relation to delivering a 'Co-operative Council' by providing a policy document that supports the Community and Voluntary Sector, as well as Social Enterprises, in seeking and attracting funding and financial support.

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land:

Each application for a community asset transfer in terms of finance, human, IT and Land will be considered on a case by case basis and in the widest possible context. The potential transfer of assets at below market value will clearly have an opportunity cost to the Council. This will be assessed on a case by cases basis in accordance with the policy.

The cost of dealing with each application for community transfer is unknown as this will depend on the complexity of each application. It is expected the identified Lead Service will have additional pressure in terms of cost in dealing with each application. This will include staff costs, costs of consultation and representation and providing appropriate support in the application process.

Additional costs - Land & Property Team / Corporate Property - providing site plans, legal documentation, historical running costs, condition surveys, maintenance plans etc.

Additional costs - Legal Services - preparing legal documentation, undertaking searches.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

The Community Asset Transfer Policy does have the potential to have a considerable beneficial impact to VCOSE's by providing a clear, transparent and uniformed approach which to follow when considering a transfer.

The operation of the Policy will have regard to the desired outcomes of other relevant Council strategies. In addition, all proposals for transfer must make an explicit contribution and impact to the needs of the city as expressed by at least the following:

- Corporate Plan;
- Local Development Framework (Plymouth Plan);

- Wider CVS policy;
- Corporate Asset Management Plan;
- Child Poverty Strategy;
- Capital Strategy;
- Public Sector Equality Duty (PSED);
- Housing Plan;
- Local Transport Plan;
- Any other Policy of relevance to a particular proposal and /or emerging Policy (Strategic Property Review & Strategy).

The Policy will provide an effective and integrated framework for addressing and responding to issues such as community safety, community cohesion, child poverty and equalities and diversity.

Equality and Diversity:

Has an Equality Impact Assessment been undertaken? Yes, see attached.

Recommendations and Reasons for recommended action:

Cabinet to recommend the adoption by Full Council of the newly drafted Community Asset Transfer Policy.

Reason: The Policy provides a clear and transparent framework for all Voluntary, Community Organisations and Social Enterprises to follow and demonstrates the Council's commitment to asset transfer as a means of enhancing the local environment and strengthening community cohesion.

Alternative options considered and rejected:

The Council continues to consider applications for asset transfer on a ad-hoc and individual basis. This results in a uneven response where each application is assessed without any scoring mechanism and at the discretion of an individual officer.

Published work / information:

Background papers:

Title	Part I	Part II	Exemption Paragraph Number							
			1	2	3	4	5	6	7	
Equality Impact Assessment	*									

Sign off:

Fin	Mc12 13.08	Leg	1730 9/AC/ 16/4/ 13	Mon Off	TH 01 11	HR		Land & Prop	JW00 014/1 8/04/1 3	IT		Strat Proc	CJT /117 /070 513
Originating SMT Member – David Draffan													
Has the Cabinet Member(s) agreed the content of the report? Yes													

1.0 Introduction

- 1.1 In May 2012, the new Labour administration of the City Council, launched a manifesto which emphasised the role Council's assets can play in delivering their agenda within a Co-operative framework. As a Co-operative Council a key aim was to improve the social and economic wellbeing of communities through the adoption of a Community Asset Transfer Policy.
- 1.2 In the summer of 2012 the Land and Property Team were instructed to draft a Community Asset Transfer Policy, taking into account best practice from other authorities and seeking advice from Localities / Asset Transfer Unit. The Community Asset Transfer Policy is set out below from Section 2 onwards, including the appendices.

2.0 The Policy

Plymouth City Council believes community asset transfer is fundamentally about giving local people and community groups greater control in the future of their area and their community in line with promoting the Council's co-operative agenda. If local groups own or manage community buildings and land, such as community centres, rugby pitches, allotments or changing rooms for example, it will help foster a sense of belonging and bring together people from different backgrounds. Community ownership of buildings can also play a part in raising local people's aspirations, in enhancing the local economy, environment and have the capacity to strengthen the community, voluntary and social enterprise sector.

2.1 Purpose of the Policy

The Policy describes the Council's approach to Community Asset Transfer.

The term 'community asset transfer' relates primarily to long-leasehold or freehold arrangements at potentially less than best financial consideration to voluntary, community organisations and social enterprises (VCOSE's).

For the purposes of this policy, 'local communities' may be:

- Communities of geography.
- Communities of identity, or
- Communities of shared interest.

The Council views community asset transfer positively for the following reasons:

2.2 Benefits to the local community:

- Devolving power to neighbourhoods or locally based VCOSE's with an interest in the neighbourhood, in an effort to enable citizen involvement and community action.
- Act as a catalyst for social, environmental and economic regeneration (including the development of community enterprise).
- Stimulate the involvement of local people in shaping and regenerating their communities.
- Catalyst for local volunteering and increasing community cohesion and integration.
- Support the creation of community leaders, social capital and inspire others to improve their community.
- Enhance and promote local economic activity at a local level.

2.3 Benefits to the VCOSE's:

- Potential to create stronger, more sustainable VCOSE's, providing financial security, recognition, and management capacity.
- Ability to lever in additional resources, which would be unavailable to the Council acting independently.
- Enabling the 'up-scaling' of activities that promote social – economic wellbeing within community and /or the City.

2.4 Benefits to the Council and other public service providers:

- Working in partnership with VCOSE's can help the Council to achieve its outcomes set out in its Corporate Plan.
- Contribute towards efficiency savings and drive the diversification of public services in an era of austerity.
- Help to rationalise the Council portfolio and facilitate more effective and efficient use of its asset base.
- A stimulus for partnership working between VCOSE's and the Council and improving the provision and accountability of services within communities.

2.4.1 The Council recognises the multiple benefits of Community Asset Transfer and will be proactive in using asset transfer as one of the tools at its disposal. The Council, therefore, aims to create a transparent, positive and proactive framework to enable asset transfer from the Council (and its partners) to VCOSE's to happen and be successful in the long term.

2.5 Challenges & Risk:

There are also a number of risks which may arise from a Community Asset Transfer. Not least the recognition that 'asset value' in some instances needs to be carefully assessed in financial terms before any decision can be made. To this end all requests for Community Asset Transfer will be considered in the widest possible context. A non-exhaustive list of examples is set out below and a risk assessment will form part of the overall assessment of each application to be weighed against:

- Loss of Capital Receipt and Value.
- Loss of assets which could have a wider strategic benefit / use in the longer term.
- Capacity of VCOSE to deliver promised services / outcomes.
- Potential for ongoing Council liability.
- Potential for community liability over their capacity to manage.
- Lack of value for money.
- Potential unfair advantage for one group over another.
- Governance issues without clear accountability and locally constituted management groups.
- Potential for negative impact on community cohesion.

3.0 Local Policy Context and Links to Other Council Strategies

3.1 The operation of the Policy will need to have regard to the desired outcomes of other relevant Council strategies. In addition, all proposals for transfer must make an explicit contribution and impact to the needs of the city as expressed by at least the following:

- Corporate Plan;
- Local Development Framework (Plymouth Plan);
- Wider CVS policy;

- Corporate Asset Management Plan;
- Child Poverty Strategy;
- Capital Strategy;
- Public Sector Equality Duty (PSED);
- Housing Plan;
- Local Transport Plan;
- Any other Policy of relevance to a particular proposal and /or emerging Policy (Strategic Property Review & Strategy).

4.0 Principles Underpinning the Asset Transfer Policy

4.1 The Community Asset Transfer Policy will be underpinned by the following principles:

4.2 Commitment to a thriving Community & Voluntary Sector

- In implementing its asset transfer strategy, the council recognises that, with appropriate support, community led solutions can sometimes achieve better outcomes than central initiatives.
- Use asset transfer as a catalyst to greater community empowerment and inspire others to create locally responsive solutions to community needs.
- Use asset transfer as a means of enabling VCOSE's to become sustainable on a long term basis.
- Community asset transfer will require a long term partnership commitment on the part of the Council and the VCOSE. This is the best way of minimising the risk of failure.
- The Council recognises the advantage of flexible lease terms to enable VCOSE's to adapt and achieve long term sustainability.
- Measurable and accountable benefits to local people in the City.
- The Council expects that with support, VCOSE's benefitting from this Policy will be guided by the Council's approach to building an inclusive and cohesive community where tangible efforts are made to encourage openness, conversation and understanding between groups and wider city community.

4.3 Pro-active and strategic asset management intent

- Community asset transfer will become integrated within Council practice, as an option for dealing with under-utilised or surplus property assets.
- The creation of Council/VCOSE Joint Ventures will be proactively explored as a mechanism to encourage community ownership particularly under a co-operative model.
- The Council will seek to extend its approach to community asset transfer and positively promote it to other public bodies and service providers.

4.4 Clarity and transparency in decision-making

- A single gateway approach is taken, providing a clear point of contact for VCOSE's with Community Asset Transfer enquiries (see appendix I).
- The Council will raise awareness through appropriate publicity, with partners, to encourage VCOSE's to consider taking on an asset.
- VCOSE's will not be required to undertake a detailed feasibility work until an 'in principle' decision has been taken by the Council.

5.0 Who Can Apply

5.1 Interest will be welcome from VCOSE's which may be area based around communities of geography, identity or shared interest. Ideally, all applicants should meet the following criteria:

- They must be community led, demonstrating wider community support for the community asset transfer and clearly defined objectives which would be enhanced and delivered through the addition of the asset in question.
- Their primary purpose must be non-commercial or with profits invested back into local communities or the city.
- Must have a clear vision of the activities they wish to deliver and resulting positive measurable impacts in the city.
- Be able to demonstrate good governance by operating through open and accountable processes, with fully constituted governing boards following clear Terms of Reference.
- Meet statutory requirements and demonstrate an inclusive approach in its policies and practices including a commitment to promoting community cohesion and integration.
- Have the skills to effectively deliver services and manage the asset to be transferred.
- Demonstrate evidence the asset will be run without the need for supplementary Council revenue subsidies. A sustainable operating model for revenue requirements will be needed.
- Have detailed proposals for the use and maintenance of the asset.
- Demonstrate how asset transfer will support the aims and priorities of the Council's co-operative approach, for all our communities.

6.0 How to Apply & How We Will Assess

- 6.1 VCOSE's should in the first instant submit an expression of interest letter / outline business case to the Council for an in principle decision on the proposed Transfer. The expected content of the expression of interest letter / outline business case is set out in Appendix I (see below).
- 6.2 If successful at this initial stage the Council will then request a further detailed and more robust business case to enable the Council to make an informed decision whether to agree to the proposed Transfer. The expected content of the detailed business case is also set out in Appendix I.
- 6.3 If after submitting an initial Expression of Interest letter the Council deems the application to be unsuccessful, the Council will inform the applicant of its decision and reasons within 3 months.

7.0 Basis of Transfer

- 7.1 The basis of transfer will be as set out below:

- VCOSE's will need to be incorporated, constituted for social benefit, and within their legal structure, to demonstrate an 'asset lock' provision to ensure that the asset is retained for community benefit. If an 'asset lock' provision is not possible a detailed explanation of Memorandum and Articles of Associations should be provided. It is standard practice for the Council to place a restriction on use.
- The Council will offer legal agreements which will enable VCOSE's to manage and develop the property as an asset ensuring the use of the building as a community asset is retained by the applicant.
- The Council will generally pursue leasehold arrangements with the term being set after carefully considering the needs of the VCOSE, the condition of the asset and the requirements of potential funders or lenders. As a guide:
A lease for a minimum of 10 years.
A lease of up to 35 years - a lease longer than 35 years may be appropriate if a business case demonstrates special circumstances or requirements from funders / lenders.

Freehold. The freehold transfer will only be considered in exceptional circumstances, 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.

- VCOSE's will be expected to produce a statement of community benefit on an annual basis. The benefits to be realised shall be agreed in advance and incorporated into a Service Level Agreement with the Council.

- When there are a number of interested parties in an asset the Council will aim to encourage collaboration. When this is not possible and as a last resort a competitive process will be used to decide the organisation which will become the Council's preferred partner in the transfer process.

8.0 Procedures for Assessing Asset Transfer Proposals

8.1 Key stages and indicative timescales

In considering the potential for asset transfer the Council will follow the process set out in Appendix 2. Key milestones in this process are set out with indicative timescales.

9.0 Community Right to Challenge & Community Asset List

9.1 The Localism Act 2011 created the Community Right to Challenge, which gives community and voluntary sector organisations the right to challenge the Council by putting forward an 'expression of interest' in running their services. The Localism Act 2011 also requires local authorities to maintain a list of assets of community value which have been nominated by the local community. There is clearly a 'cross-over' between both these initiatives and the Community Asset Transfer Policy. Whether delivering a service or managing / owning an asset of community value the Act does not give an automatic right to the organisation expressing an interest, nor is it guaranteed the organisation will be successful in any procurement exercise.

9.2 The Council has agreed it will receive expressions of interest in relation to any service under the Community Right to Challenge process in the months of February and August of each year. The Council has the right to reject expressions of interest received outside these time periods. Further information can be found on the Council's website. Expressions of interest for Community Right to Challenge should be sent to the Council's Monitoring Officer, Democracy and Governance, Plymouth City Council, Civic Centre, Plymouth PL1 2AA.

9.3 Community groups wishing to add an asset to the list of assets of community value can do so at any time. Further information can be found on the Council's website. Expressions of interest for Community Asset List should be sent to the Council's Monitoring Officer, Democracy and Governance, Plymouth City Council, Civic Centre, Plymouth PL1 2AA.

9.4 If a community group wish to add a Council owned asset to the Community Asset List then in the first instant they should contact the Head of Land & Property, Economic Development, Plymouth City Council, Civic Centre, Plymouth PL1 2AA who will log the request.

9.5 The Community Right to Challenge & Community Asset List processes are separate from the Community Asset Transfer Policy process where each request will be considered at any time following the procedures set out below in the appendices.

APPENDICES

Appendix I

As part of the single gateway approach all Community Asset Transfer requests should be sent in the first instance to the Head of Land & Property, Economic Development, Plymouth City Council, Civic Centre, Plymouth PL1 2AA who will log the request, and will co-ordinate the process.

Expected Content of Expression of Interest Letter / Outline Business Case

Provide details about your organisation (Who you are, how long have you existed, current involvement in the community).

Identify the building / land proposed to be transferred.

Identify the anticipated benefits to the Council, the community based group and the wider community.

Identify the VCOSE's plans for the building.

Identify any local support for the proposal.

Identify the length of transfer requested - leasehold and lease length.

Expected Content of Detailed Business Case

The business case is the single most important document to inform the decision about whether to proceed with the Transfer. All business plans must contain the following:

Summary - Who you are, what you want to do, how you intend to do it.

About your organisation - Track record, current plans, partnerships and people, governance, legal structure.

Summary of the project - Project Objectives and expected outcomes, proposed programme for delivery, proposed impact/benefits of the project to the local economy, proposals for management and operation of the asset (staff, volunteers).

Market Need – what local needs will the project be responding to (who will be the beneficiaries)? How many will benefit within a year (e.g. community groups, local people)?

Supply – who else is delivering similar activities in the same area? Is this potential for collaboration or competition and how will you respond to this?

Demand – who will purchase the services/products that you provide?

Pricing – what is the rationale for pricing (for services, renting space etc.)?

Sustainability – how the performance of the asset will contribute to sustainability through its life cycle.

Equality, Diversity & Community Cohesion – evidence the project will meet all the relevant requirements of the Equality Act 2010 and assist Plymouth City Council in promoting community cohesion.

Promotion - marketing strategy? (Online, direct to customer etc.) And who will you target? Who will do it (in-house or external)?

Resources/ Financial projections - Cash flow for first year, should include budget (3-5 years), should include examination of profit and loss and capital expenditure (if capital is required to redevelop the building sources secured or identified should be stated). The long term financial sustainability of the proposal should be clearly demonstrated. Explaining rationale for projections and assumptions should be made. This should also include assumptions about timings and level of commitment for both income and expenditure.

Risk assessment/management/mitigation - Identification of the different risks and a description of the implications of those risks occurring. Risks should be evaluated in two ways – the likelihood that the risk item will occur and the level of impact if the risk item does occur. A description of what the

organisations strategy will be to prevent the risk items from occurring, or coping with them if they do, should also be provided

- The organisation will also be expected to submit copies of governing documents, any evidence of external advice provided, expressions of support from partners/customers, copies of accounts (where available).

Appendix 2

PROCEDURES FOR ASSESSING ASSET TRANSFER PROPOSALS

Key stages and indicative timescales

In considering the potential for asset transfer the Council will follow the process set out below.

As part of the single gateway approach all transfer requests should be sent to the Head of Land & Property, Economic Development, Plymouth City Council, Civic Centre, Plymouth PL1 2AA who will log the request, and will co-ordinate the process. The Assistant Director for Homes and Communities will liaise with the voluntary and community sector on all applications received to ensure a widest possible consultation. The Cabinet Member for Cooperatives and Community Development will retain an overall responsibility for executive guidance to ensure a strategic decision is taken in particular where there is a potential for multiple community asset transfers.

The timeline set out below is purely indicative and will vary dependent upon the complexity of each application. It is also envisaged some of the points below will run concurrently with the process becoming more proficient as each application is considered.

1. Request – 3 Months*

Submit a request for a transfer by completing an initial Expression of Interest (EOI) letter/ outline business case (see appendix 1).

Provide details about the organisation, identifying the building proposed to be transferred, identifying the VCOSE's plans for the building and identifying any local support for the proposal.

The request will be referred to the LAND & PROPERTY TEAM for an endorsement for the transfer to be taken to the next stage.

The LAND & PROPERTY TEAM will issue notification of Asset Transfer Request to Cabinet Members, appropriate Ward Councillors, Director's and Assistant Directors for comment and notification of interest in the asset.

Each Directorate shall respond to the notification and identify any action required by the community group applying for the community asset transfer.

If an application is deemed unsuccessful after the EOI letter stage the Council will inform the applicant of its decision and reasons.

2. Lead Service – 2 Months*

The Lead Service would be the Council service with most appropriate links to the organisation requesting an asset.

The role of the Lead Service is to co-ordinate the Council's response to the request for an asset transfer and produces a report to Cabinet for an 'in-principle' decision. The Lead Service will be supported in this process by the LAND & PROPERTY TEAM. If there is no one lead service then agreement must be made by the appropriate Director on who will lead, with Land and Property in support.

The Lead Service will need to verify the credentials of the VCOSE's and to ensure that other VCOSE's operating in the area are aware, consulted and have been able to make representation.

3. Initial Report to Cabinet – 2 Months*

The report will detail relevant information, which Councillors will need to make an informed decision.

This will include information on the organisation, the asset (value, repair, condition/suitability, use) and the community benefits potential of an asset transfer (e.g. efficiency savings for the Council).

4. In Principle Decision – 1 Month*

The Council's decision will be 'in principle'. This will represent a decision to proceed by exploring the feasibility of the transfer as a VCO/Council partnership.

This will be subject to a detailed business plan and an associated business development process which will determine potential level of market discount, length and condition of lease, etc.

5. Detailed Development Stage – 4-8 Months*

Undertake detailed work to a viable business plan (see appendix 1).

The Council will provide information required to make the application process as straight forward as possible (e.g. site plans, legal docs, historical running costs, conditions survey, maintenance plan, etc.).

During this time the parties will reach in principle agreements around heads of terms, levels of discount and the provision for a Service Level Agreement.

6. Report to Cabinet – 2 Months*

Final report recommending transfer and outlining the terms and conditions. If an application is deemed unsuccessful at the Cabinet stage the Council will inform the applicant of its decision and reasons.

7. Transfer – 1 Month*

Transfer may be immediate. However there may be significant advantages to a phased handover – especially if the Council will be running it as an operational asset prior to the VCOSE's taking possession.

8. Ongoing Partnership and Support – 10 Years +

It is recognised that a pre-requisite of transfer success is an ongoing partnership between the Council and the VCOSE's. This may take the form of technical support and advice. It may also a commitment to ongoing dialogue, which will last far beyond the transfer event itself.

* Time scales approximate, depending upon complexity of each case.