

Community Asset Transfer Policy – Exeter City Council

August 2022

1. Introduction

- 1.1 The use and occupation of council owned premises or land by the community and voluntary sector is not new. The Council has already leased assets such as the Valley Parks to Devon Wildlife Trust and Queen's Crescent Garden to St James Community Association. Around 30 other sites are in community management either through transfer or long leases. (Note 1)
- 1.2 The purpose of this policy is to build upon current experience and best practice to provide a clear policy framework for responding to future requests from community organisations for asset transfer.
- 1.3 Community Asset Transfer is the transfer of management and /or ownership of public land and buildings from its owner (in this case the local authority) to a community organisation (such as a Charitable Organisation, a Community Interest Company or Social Enterprise) to achieve a local social, economic or environmental benefit.
- 1.4 Local authorities have the general power to dispose of land and buildings in any way they wish, including the sale of a freehold interest and granting a lease. As a general rule, the expectation is that the authority should achieve the best price possible for the asset, known as 'best consideration'.
- 1.5 Under the provisions of the Local Government Act 1972: General Disposal Consent (England) 2003 there are circumstances where it is appropriate for a local authority to dispose of land 'under value' where it is for the economic, social and/or environmental wellbeing of the area. Disposing of an asset at less than the market value is known as disposal at "less than best consideration". In general, but not exclusively a Community Asset Transfer usually implies rental or sale at less than commercial value.
- 1.6 Local authorities do not have to undertake a marketing process for a Community Asset Transfer. However, there is a general requirement to follow "normal and prudent commercial practices". As long as a robust business case for asset transfer has been made, there is no requirement to 'market test' a transfer proposal to meet the General Disposal Consent.
- 1.7 However, if there is no competitive process, groups will be expected to submit a 'bid' for the asset in question demonstrating a robust business plan, long term funding position and management plan. It would also be necessary to identify clear community benefit justifying the use of public assets.
- 1.8 Due to the diverse nature of the Council's property holdings it is clear that one policy may not fit all circumstances. However a number of common themes will apply e.g. nature and capacity of the applicant, adoption of robust option appraisals including financial implications to the authority, contribution to corporate objectives, assessment of risks and sustainable business cases are essential before contemplating the transfer of any asset.

2. Purpose of this policy

- 2.1 The purpose of this policy is to set a transparent and positive framework to enable, where appropriate, asset transfer from Exeter City Council to the 'not for profit' and voluntary and community sector.

3. National Policy context

- 3.1 Through the introduction of the Community Right to Bid in the Localism Act 2011, Government has raised the profile of better utilising assets to meet community needs. *"The over-riding goal is community empowerment.... In a sense we are moving from an assumption that the state's role is to try and solve all social problems, to one where the state's role is to help communities solve their own problems". (Quirk: Making Assets Work 2007)*

4. Council's Disposal Policy

- 4.1 The use of premises by community organisations is considered as part of the analysis of surplus asset disposal alongside use by the Council itself and use by other public sector bodies. The priority will always be to obtain the best outcome to help deliver Council objectives. This requires balancing the best price reasonably obtainable to support the Council's finances against the benefits being offered through alternative uses including community asset transfer.
- 4.2 The Council has the opportunity under the General Disposal Consent to sell or lease general fund assets at less than best consideration in cases where it can demonstrate and attribute value to wellbeing benefits that would arise. Any disposal for less than best consideration would need to be transparent, justifiable and have the appropriate Executive or Council approval.

5. Local policy context and links to other strategies.

- 5.1 The operation of this policy will need to take into account the desired outcomes in the Councils Corporate Plan including;
- The City Council's 2018/2021 'Exeter Live Better' corporate plan aims to build on Exeter's growth by delivering strategic programmes that focus on the major challenges facing the City: tackling congestion, promoting healthy & active lifestyles and building great neighbourhoods.

Link: <https://exeter.gov.uk/council-and-democracy/council-information/corporate-plan-2018-21/>
<https://exeter.gov.uk/media/5362/our-strategy-autumn-2020-update.pdf>

Note: The 2022- 2026 corporate plan is due to be presented to Council in October 2022. .

- The Exeter Grants Programme is an exciting step forward for the Council in our endeavours to support community groups and organisations to address the demands that development places on the city. See <https://exeter.gov.uk/people-and-communities/grants/exeter-grants-programme/>

6. Aims of Community Asset Transfer

6.1 The Council's Property Portfolio includes land, buildings and other structures held to support direct service delivery, support delivery by partners including the voluntary sector, stimulate economic activity and regeneration, social, community and public functions. For some of these assets community management and ownership could deliver:

- **Benefits to the local community:** these can arise from: building confidence and capacity; attracting new investment and reinvigorating the local economy; and securing stronger, more cohesive and sustainable communities.
- **Benefits to the Council and other public sector service providers:** these can arise from : the creation of a new partner able to tap into additional resources ; the ability to engage with a more cohesive local community; new service provision complementing and augmenting statutory services
- **Benefits to the organisations taking management:** these can include: financial security; increased recognition; power; management capacity and organisational development, and through having a secure base opportunities to expand and diversify.

6.2 The Council could expect to be seeking the following benefits from community asset transfers:

- Neighbourhoods that support wellbeing and reduce social isolation
- Area wide benefits for the residents of Exeter City Council
- A sustainable voluntary and community sector
- Economic development and social enterprise
- Improvements to local services
- Value for money
- Delivery of Corporate Plan priorities

7.0 Principles of our Community Asset Transfer policy

7.1 The City Council policy on Community Asset Transfer is underpinned by the following principles:

- Any proposed asset transfer must support the aims and priorities of the council as set out in the corporate plan or underpinning policy/strategy.
- Any proposed asset transfer must recognise the Council's dual role as a supporter of the voluntary sector but also as a steward of publically owned assets.
- The Council will put in place a transparent corporate process for asset transfer which will include a single point of first contact and clear stages and timescales for each party.
- The Council will set out a single method of assessing the benefits of the transfer (linked to corporate priorities) which allows a comparison with market disposal.
- If any disposal at less than best consideration is pursued it will be accompanied by a legally binding service level agreement (SLA) identifying the benefits and how these will be monitored and measured.

8.0 Criteria to be adopted for considering requests for Community Asset Transfer

8.1 The Community Asset Transfer decision involves the assessment of a number of criteria including considering the options arising from:

- Benefits to respective parties e.g. Council, community organisation, generated by the transfer of the asset to the community
- Loss of any existing income
- Potential loss of opportunity costs arising from transfer
- Retention of assets for direct service delivery
- Raising of capital receipts for future investment in direct service provision

8.2 Requests for the transfer of council owned assets would be considered where the following criteria are met.

a) The Applicant must be:

- Community led, i.e. it's 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 – not part of the statutory sector
 - It must exist for community/social/ environmental benefit
 - Non- profit distributing – it must reinvest any surpluses to further its social aims/ community benefits;
 - Has community benefit objectives
- The organisation must be appropriately constituted, for example, a registered charity, a community interest company (CIC) a not for profit company or a co-operative. The constitution should allow the management and ownership of buildings and provision of services.

b) The Asset will be :

- In the freehold/leasehold ownership of the Council from which the transferee can demonstrate community benefit.
- Reviewed to :
 - assess the suitability of the asset for Community Asset Transfer by way of an options appraisal against alternate uses (where competing uses are apparent);
 - identify if it is not currently needed or identified for future investment value or use for direct service delivery, which could best be provided by the authority rather than through the community;
 - identify if the transfer will help to deliver the strategic priorities of the Council or other public bodies;

- ensure it is fit for purpose and would not impose an unreasonable liability to the Voluntary Sector Organisation or the Council or that a robust plan is in place to address any issues or liabilities;
- Ensure transfer or management of an asset would not be contrary to any legal restriction or obligation placed on the Council.

c) Proposed use of Asset will

- Demonstrably help in the delivery of the Council’s Corporate Plan
- Ensure extensive and inclusive reach into the community and will be open to all.
- Maximise opportunities for income generation to ensure sustainability, for example, through social enterprise and the hiring of space and facilities.
- Ensure there is both a need and an ongoing demand for the activities being proposed and consideration is given to whether or not this is being satisfactorily addressed by another organisation.
- Ensure a clear management structure demonstrating how premises will be managed on a day to day basis, and with legislation affecting occupation of premises.

d) Business Plan and Finance

Fundamental to the success of any transfer is the applicant being able to demonstrate to the Council that they have a clear rationale backed by a robust business-case of their ability to manage the asset effectively. In terms of proposing a business case for consideration by the Council any applicant will need to clearly identify:

- At least 5 years revenue or capital funding plans and projections of managing and operating the asset.
- How it will invest in and maintain the asset including a specific plan as to how all health and safety responsibilities will be met.
- The planned outcomes and benefits to result from the asset transfer
- Demonstrate a community governance structure with capability to sustain asset transfer and has identified necessary capacity building requirements within the organisation
- Where transfer is requested at less than market value either freehold or leasehold the applicant has justified and quantified the benefits to the community and Council to justify the subsidy. The Council will separately need to satisfy that any transfer is within its legal and financial powers
- Track record of delivering services and/or managing property
- Financial sustainability and forward planning

9. Consideration by the Council

9.1 In view of the diverse nature of assets within the Council’s ownership, there is no one disposal methodology that suits all circumstances for example the majority of current agreements are that asset transfers are by means of leases or licenses. Freehold transfer will be considered in exceptional circumstances, and must be the subject of a specific report to Council to gain approval. It would be critical in such circumstances to have in place rigorous safeguards for ongoing stewardship and for the sustainability of the proposed use of the asset. Nature of Tenure offered will be on a case by case basis having regard to the

particular circumstances of the project, strength of the applicant and sustainability of the business case etc.

- 9.2 An officer from the Council's Active and Healthy People's Team will act as the initial point of contact for any group wishing to discuss a potential asset transfer to help navigate the multiple departments that would need to be involved to make a decision. This is to provide consistent, accurate and constructive information and advice to all initial enquiries and to maintain a record of all contracts and areas of interest for good governance and to inform future strategy.
- 9.3 The officer will provide information on what is involved and the skills, experience and resources an organisation would need to embark on an asset transfer. If the initial enquiry relates to a particular building then Corporate Property would be contacted by the officer to see if this building is potentially available for consideration of a CAT. The Council will establish a 'list of needs' that properties could be matched to.
- 9.4 Should an organisation wish to proceed they will need to submit a brief Expression of Interest Form. Officers would work in conjunction with the leader of the council and portfolio holder to, if appropriate, progress any business case to Executive. The transfer of the asset will be managed by an officer within the Corporate Property Services.
- 9.5 The Community benefit of an asset transfer will be assessed by representatives from the Estates team and the Communities team in the first place, after considering the business plan and application and with reference to criteria referenced in no. 8

Notes:

1. The Queen's Crescent gardens site was Compulsory Purchase Ordered (CPO'd) by ECC at the request of St James Community Association on the basis they would take responsibility for the site.

Appendix 1.

Community Asset Transfer Help and Advice

'My Community' have produced guidance setting out the stages of asset transfer for community groups who want to start the process of developing an asset transfer project.

<https://mycommunity.org.uk/help-centre/resources/land-and-building-assets/getting-started-asset-transfer/>

The Local Government Association with support from Locality have produced a guide for Local Authority officers 'Empowering Communities: making the most of local assets' (2012).

<https://locality.org.uk/wp-content/uploads/2018/03/Companion-Guide-for-Local-Authorities-Empowering-Communities.pdf>

There is also a guide for Councillors 'Building powerful communities through community asset transfer'.

<https://locality.org.uk/wp-content/uploads/2018/05/Understanding-Community-Asset-Transfer-Guide-for-Councillors.pdf>