

## **REPORT TO EXECUTIVE**

Date of Meeting: 6 September 2022

## **REPORT TO COUNCIL**

Date of Meeting: 18 October 2022

Report of: Director of Culture, Leisure and Tourism

Title: Proposed adoption of Community Asset Transfer policy

### **Is this a Key Decision?**

No

### **Is this an Executive or Council Function?**

Council

## **1. What is the report about?**

1.1 This report is to inform members about the proposed purpose, procedure and resource implications of adopting the attached Community Asset Transfer policy. We have met the Council's statutory (and good practice) duty to consult stakeholders and to present the adjusted proposed policy and processes to reflect as far as practicable the feedback received.

1.2 To provide a brief definition of Community Asset Transfer (CAT), and background in that over the past 10 years or so it has been increasingly considered good practice by the Local Government Association in terms of property portfolio management plan and enabling community empowerment and greater partnership.

1.3 Exeter City Council has drafted a Community Asset Transfer Policy which aims to provide a transparent, consistent and positive route-map for organisations who want to progress an application for a Community Asset Transfer for a building or land belonging to the Council.

1.4 A survey was launched in on the 1 June 2021 and was open for 8 weeks until 30 July 2021. Two workshops were held on the 6/7 July.

1.5 The purpose of the survey was to gain feedback from community organisations to help ensure that the policy is fit for purpose in terms of both being clear to use, and to help us to deliver benefits to the communities of Exeter.

1.6 This report gives information about responses to the survey and makes recommendations on the implementation of the policy.

## **2. Recommendations:**

2.1 That Executive RECOMMENDS to Council to adopt the Community Asset Transfer Policy.

### **3. Reasons for the recommendation:**

3.1 To implement the Community Asset Transfer Policy as attached.

### **4. What are the resource implications including non financial resources?**

4.1 The initial officer identified to be the first point of contact from ECC will be from the Communities Team. They will work with the Estates Team as part of business as usual. This will form part of their role and will not incur any additional cost. Workload will need to be managed.

4.2 Many respondents have expressed the need for the council to be able to work in partnership with community and voluntary organisations who may wish to take on the responsibility for an asset. This would be achieved by maintaining where possible access to the current community grants programme to help contribute to costs of establishing and developing the facilities and services that the asset will be used for. This may be in the form of capital investments (such as through the Large Grants Fund) where funding is available up to £10,000 to help refurbish and modernise such premises, as this may well be work required by the community organisation prior to the asset being ready to generate its proposed sustainable income streams and self-sufficiency in the medium to long term.

### **5. Section 151 Officer comments:**

5.1 The Policy provides a clear approach to assessing potential Community Asset Transfers. Members are reminded of their responsibilities of managing assets held on behalf of the Citizens of Exeter and along with Officers, they must ensure that any potential uses are financially robust and protect the assets for future generations. Councillors must balance aspirations along with their financial responsibilities when considering any requests.

### **6. What are the legal aspects?**

6.1 When disposing of any surplus property the Council is generally under the duty imposed by S123 of the Local Government Act 1972 to do so at the best consideration reasonably obtainable. However the General Disposal Consent 2003 allows a disposal at an under value if it is for the social, economic or environmental wellbeing of the area, provided that undervalue does not exceed £2m.

A robust and transparent process for assessing the benefits of any proposed community asset transfer should be put in place.

Before any community asset transfer is agreed the Council's title to the property must be checked to ensure there are no legal restrictions.

### **7. Monitoring Officer's comments:**

The legal aspects associated with the disposal of surplus Council property are clearly shown in paragraph 6 above. Particular attention is drawn to the content of the Local Government Act 1972 General Disposal Consent (England) 2003 which provided guidance to those local authorities in England (listed in paragraph 3(1) of the Consent) which have land disposal powers under sections 123 and 127 of the Local Government

Act 1972 ("the 1972 Act"). This gave greater freedom to authorities to exercise discretion in the disposal of their land where the difference between the unrestricted value of the interest to be disposed of and the consideration accepted ("the under value") is £2,000,000 (two million pounds) or less.

The attached policy sets out the process to be followed as and when requests are received for a potential community asset transfer. It is also suggested that Legal Services are informed at an early stage of any potential requests so that suitable legal advice is obtained in a timely manner.

John Street – Deputy Monitoring Officer

## 8. Report details:

8.1 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 Trust, a Community Interest Company or Social Enterprise) to achieve a local social, economic or environmental benefit.

8.2 Historically, Local authorities have had the general power to dispose of land and buildings in any way they wish, including the sale of a freehold interest and granting of long leaseholds. As a general rule, the expectation was that the authority should achieve the best price possible for the asset, known as 'best consideration'. However, the General Disposal Consent (England) 2003 gives Local authorities greater freedom to dispose of any interest in land (and buildings) at less than best consideration without the specific consent of the Secretary of State as previously required. Under this General Disposal Consent LA's may consider disposal at a reduced price (**including no cost**) if the purpose for which the land/building is to be disposed of is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of its area. Any 'less than best' decisions will be determined by Executive, in line with existing Policy.

8.3 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 as a result of a Compulsory Purchase Order and at the request of St James community Association. . Around 30 other sites are in community management either through transfer or long leases.

8.4 The overall aim of Exeter City Council adopting a Community Asset Transfer policy is to provide a transparent, consistent and positive framework for organisations who want to progress an application for a Community Asset Transfer for a building or land belonging to the Council. As the policy sets out; "*Any proposed asset transfer to the community will need to demonstrate that it will compliment and help to support the vision, aims and priorities of the Council as set out in its Corporate Plan*". The policy goes on to define: It's Aims and Principles; intended benefits and impacts; The Criteria to be adopted for assessing individual applications.

8.5 A draft policy was put out to public consultation for a period of eight weeks in summer 2021 to glean stakeholder support in principle, and to help gauge the extent to which the policy will enable us to deliver the intended benefits to the communities of Exeter. This

stakeholder consultation consisted of an on-line questionnaire survey and two interactive workshops hosted by Exeter Connect. This opportunity for feedback and suggested amendments submitted have helped to firm up the final version of the policy as attached in Appendix I.

In terms of consultation feedback, overall 27 respondents completed the questionnaire, of those over 85% supported the proposal that ECC should have a Community Asset transfer policy. The vast majority of respondents also indicated that the CAT policy had the potential to deliver the following benefits:

- Improve wellbeing & reduce social isolation
- Provide area-wide benefits for the residents of Exeter
- Support a more sustainable voluntary and community sector
- Nurture economic development & social enterprise
- Create improvements to local services & create new services
- Represent good value for money
- Attract additional investment and new external sources of funding
- Grow the resilience and self-reliance of communities
- Help the Council to achieve its strategic priorities

(Please refer to Appendix 2 for a full summary of the survey and responses)

8.6 Key concerns expressed by respondents to consultation regarding community organisations taking on the responsibility for managing assets:

*“While I believe the policy has many positive benefits for communities, services and the council, the workload placed upon volunteers is huge, demands on the few individuals with responsibility within organisations needs to be considered so not to potentially overwhelm...”*

*“Must be a locally based organisation with local community members/ directors from Exeter”*

Importance of working in partnership with communities:

*“have to work 'with' communities in partnership rather than 'doing to' . More emphasis on enabling people... “*

The council should retain ownership to be able to monitor use of the asset:

*“The Council has to remain the owner of the building is better to run by organisations. We need the Council to monitor the access”*

*“How will this be monitored? And how easy will it be for the council to take appropriate action if the approach is not working”?*

Support needed:

*“The Council should support business planning & set out clear criteria against which it will be assessed.”*

*“Help with calculating social value would be useful”*

General:

*"I agree flexibility is required and this policy allows for that".*

## **9. How does the decision contribute to the Council's Corporate Plan?**

This policy contributes to the Council's Corporate Plan objectives of Building Great Neighbourhoods and Promoting Active and Healthy Lifestyles.

The Voluntary & Community Sector is a key part of the city's fabric and it delivers extraordinary value in the social capital brought to communities through the local connectivity, social organisation, leadership and ownership, demonstrated through the fantastic things that people achieve in and for their communities.

## **10. What risks are there and how can they be reduced?**

10.1 Risks could include that a community organisation did not have sufficient financial resources, skills or capacity to manage the process of taking on responsibility for management of a community building or land. This risk would need to be minimized through a robust business plan and effective support through a city council lead officer also potentially through an infra-structure organisation guidance and support.

10.2 A building moving into management by a community organisation may not fulfil the aims as identified in the business plan, and fail to meet the needs of the target community. This would need to be addressed through ongoing communication, monitoring and break clauses in any agreement between the organisation and the council. This will be more easily addressed if any CAST is on a leasehold basis rather than a freehold transfer.

## **11. Equality Act 2010 (The Act)**

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 The proposals to have a Community Asset Transfer Policy will positively support community and voluntary sector organisations in the city. This offers greater opportunities to support wider community involvement and engagement with residents in the city. The business plans will need to demonstrate how the organisation will ensure that the Centre/resources will be accessible and meet the needs of different communities in the city.

## **12. Carbon Footprint (Environmental) Implications:**

No direct carbon/environmental impacts arising from the recommendations.

## **13. Are there any other options?**

Not to have a Community Asset Transfer policy and continue to deal with enquiries on a one to one basis.

**Director of Culture, Leisure and Tourism, Jon-Paul Hedge**

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## **Local Government (Access to Information) Act 1972 (as amended)**

Background papers used in compiling this report:-

- Appendix 1 Community Asset Transfer policy
- Appendix 2 Questionnaire (pdf)
- Appendix 3 Summary (pdf)

Detailed responses:

Respondents had links with 25 organisations in the city:

- Topsham Community Association
- Topsham Museum
- Topsham Community Tennis
- Bury Meadow
- Ludwell Life
- Exeter City Life Church
- Stoke Hill Community Association
- Stoke Hill PTFA
- Local Community composting group Castle Mount
- Exeter Community Energy
- Exeter Drama Company
- St Thomas Together
- St Thomas Community Association
- Cowick Wellbeing Hub
- Freemoovement
- Park Life Heavitree

- Estuary League of Friends
- The Nest South West Community Interest Company
- Exeter Community Alliance
- Wonford Community Learning Centre Ltd
- Alphington community Association
- Isca Community Enterprises
- Exeter Respect CIC
- Newcourt Community Association
- Wood For Good Exeter (25)

Contact for enquires:  
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