

## EXECUTIVE 19<sup>th</sup> May 2022

<b>Report Title</b>	<b>Community Asset Transfer Policy</b>
<b>Report Author</b>	George Candler, Executive Director, Place and Economy
<b>Lead Member</b>	Councillor Graham Lawman – Executive Member for Highways, Travel & Assets

<b>Key Decision</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Is the decision eligible for call-in by Scrutiny?</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Are there public sector equality duty implications?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Does the report contain confidential or exempt information (whether in appendices or not)?</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Applicable paragraph number for exemption from publication under Schedule 12A Local Government Act 1974</b>	

### List of Appendices

#### **Appendix A – Community Asset Transfer Policy plus appendices**

##### **1. Purpose of Report**

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- 1.1. To introduce the Community Asset Transfer (CAT) policy and supporting processes for review and decision by the Executive.

##### **2. Executive Summary**

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- 2.1 The proposed policy provides a framework for assessing transfer of council land and property to community organisations, including Town & Parish Councils, in a consistent and fair way across North Northamptonshire.
- 2.2 The proposed Policy is developed in consideration of the Corporate Plan and aims to provide direction to the community on the evaluation and determination process for asset transfers.
- 2.3 The Policy is supported with annexes to give the Executive further information on the way each request will be processed to ensure transparency and demonstrate that a consistent approach will be adopted.

### **3. Recommendations**

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3.1 It is recommended that the Executive approve the Community Asset Transfer Policy at **Appendix A**.

3.2 The reasons for the recommendation are:

- The policy supports good governance in relation to the councils' obligations to comply with the legislation that govern land transfers.
- The policy and process support the evaluation of community asset transfer enquires and provide a guide to community organisations.
- Adopting the policy provides for a consistent and transparent approach to be administered which reduces the risks associated with asset transfers.
- Adopting the policy supports the Councils Corporate Plan.

3.3 Alternative Options Considered:

- The Council could choose not to adopt the proposed policy and manage each request as it is received, however this could lead to inconsistencies in the approach to community asset transfers.
- The Council could adopt an approach to not support community asset transfers to avoid the risks detailed in the policy and retain direct control of assets, however this would limit the benefits that can be achieved from community delivery.

### **4. Report Background**

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4.1 The Council holds a public estate for a variety of purposes such as:

- Operational space to deliver a required service.
- Civic Meeting Rooms for the Council for fiduciary purposes where Councillors discharge their role.
- Property and land held for economic development, to assist in the regeneration of North Northamptonshire
- Commercial portfolio held to earn an income; the money used to support service delivery
- Community space, to support social wellbeing.

4.2 The recent and increasing government drivers to empower communities has resulted in a recognition that at times community land and property can be more effective in supporting the community if it is in the control of local organisations.

4.3 Community assets may become available for asset transfer in one of two ways. Either the council identifies one of its assets and then brings it forward as surplus supported with a recommendation, or the community may review the asset list and identify an asset which may be of interest to them, and they then approach the Council with an expression of interest. Either way it is for the authority to determine whether the asset is surplus.

- 4.4 Transferring community property and land into local control carries risks. The Council needs to assure itself that the social, wellbeing and community use is in line with the Corporate Plan, and that the organisation has the capacity and financial ability to maintain and invest in the asset.
- 4.5 It is important that the Council conducts a due diligence process to understand more about the organisations aims, how the transfer will support their business plan both now and in the future. The council should also satisfy itself that the safeguarding and health and safety arrangements of the community organisation are in place and operating in line with laws and best practice surrounding these matters.
- 4.6 The proposed policy and processes are designed to guide the Council and the organisation through each area of due diligence with the aim of mitigating the risks associated with a transfer.

## **5. Issues and Choices**

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- 5.1 Supporting communities' forms part of the Corporate Plan and the Localism Act 2011 which together with subsequent Regulations have created a series of empowerment rights such as right to challenge and rights to nominate local assets of community value.
- 5.2 However, the powers granted to Councils to transfer assets to the community at less than best value are found in the Local Government Act 1972 and the General Disposal Consent 2003.
- 5.3 The General Disposal Consent 2003 in this context provides for a Council to consider a transfer at less than best value where the authority considers the transfer is likely to contribute to the promotion or improvement of social wellbeing. There is a process to determine the undervalue and the Consent confirms that provided the undervalue is less than £2,000,000 the Council may authorise the transaction following a due diligence process.
- 5.4 As the Council holds its estate for the public, a process to consider requests and assess each stage to ensure the risks are mitigated and best value is achieved from any transfer is required. The proposed policy aims to satisfy this need by providing a framework for social value to be measured against the loss of the asset and risk from any transfer.
- 5.5 In order to comply with Best Value duties, any asset transfer will be at the market value, as determined by the proposed community use. In exceptional circumstances a transfer at less than market value, either at a reduced cost or rent free might be considered. The level of subsidy provided by the council will be determined by the social, economic, or environmental benefits generated by the transfer and demonstrated in a robust business case. Further detail on how the council will consider applications is found in section 4 of the policy document.
- 5.6 Any proposed asset transfer will be in accordance with the Council's constitution and prevailing disposal policy, following Executive Member consultation.

## **6. Next Steps**

- 6.1 To formally adopt the policy and implement its use, including promoting its availability via the council's website and other communication channels.

## **7. Implications (including financial implications)**

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### **7.1 Resource, Financial and Transformation**

- 7.1.1 Implementation of the policy has no direct financial implications, and the process will be administered within existing team resources.
- 7.1.2 The applications considered as part of the policy will have financial implications either from divestment of responsibility for assets, or potential opportunity cost from rent foregone. Such risks will be managed and evaluated as part of the application.

### **7.2 Legal and Governance**

- 7.2.1 Any disposals will require Legal input in terms of exchanging and completing contracts of sale and ongoing input from Finance in terms of the review of business cases, impact on capital and revenue budgets together with the monitoring and management of capital receipts.
- 7.2.2 The Council has the discretionary power under the General Disposal Consent (England) 2003 and S123 of the Local Government Act to consider disposals of surplus assets at less than best consideration where such disposal is likely to contribute to the promotion or improvement of the economic, social or environmental wellbeing of the North Northamptonshire area and its residents provided that the value of the asset is less than £2m. Should the value of the asset be more than £2m and it is proposed to transfer or dispose of the asset at an undervalue the approval of the Secretary of State is required.
- 7.2.3 The Council will consider state aid implications in any transfer.

### **7.3 Relevant Policies and Plans**

- 7.3.1 The adoption of this policy links with the Councils Corporate Plan 2021-25 priority of Connected Communities, by providing a clear process for communities to apply for community asset transfers.

### **7.4 Risk**

- 7.4.1 The policy details the risk associated with community asset transfers at section 4.10. These might include a transferee's ability to manage the financial liabilities of the asset or an inadvertent impact on the community through a perception of loss of access.

7.4.2 The council should also be mindful of the risk of losing strategic oversight of services across North Northamptonshire when considering asset transfers, for example transferring open space may lead to inconsistencies in its management across the area.

7.4.3 The policy proposed provides an evaluation methodology to mitigate and consider such risks.

## **7.5 Consultation**

7.5.1 The policy builds in consultation to the process as applications are received, including consultation with Ward Members and relevant community groups.

## **7.6 Consideration by Executive Advisory Panel**

7.6.1 Any comments from the Executive Advisory Panels to be confirmed at the meeting.

## **7.7 Consideration by Scrutiny**

7.7.1 This paper may be selected for consideration by Scrutiny Commission. The draft policy was presented to the Asset Rationalisation Scrutiny Panel.

## **7.8 Equality Implications**

7.8.1 An Equality Screening Assessment has not identified any adverse impact on individuals with protected characteristics. Equality Implications are a factor considered as part of the evaluation matrix for individual applications.

## **7.9 Climate Impact**

7.9.1 Environment is a factor for consideration within the evaluation matrix, which might include the benefit of investment by a transferee in improving the energy efficiency of a property or improving the natural benefits of a site through rewilding or tree planting. Such benefits need to be weighed against the council losing the ability to directly influence environmental impact on the asset if transferred.

## **7.10 Community Impact**

7.10.1 Community impact is covered in detail within the report and the policy. It is noted that where carefully managed transferring assets to local stakeholders can have considerable benefits to the community.

### **7.11 Crime and Disorder Impact**

7.11 There are no Crime and Disorder issues arising directly from this report.

## **8. Background Papers**

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8.1 The Policy document and appendices refer to external legislation and website available to support applicants.