

Taunton Deane Borough Council

Executive – 9 March 2016

Community Asset Transfer Policy

This matter is the responsibility of Executive Councillor Edwards

Report Author : Tim Child, Asset Manager

1 Executive Summary / Purpose of the Report

- 1.1 This report provides Members with details of the recent consultation completed in respect of the Council adopting a Community Asset Transfer policy.
- 1.2 A report has been presented to Community Scrutiny on 1st March 2016 and that Committee's recommendations will be provided verbally at the Executive meeting of 9th March 2016.

2 Recommendations

- 2.1 The Executive is recommended to agree the adoption of the attached:
 - a) Community Asset Transfer Policy
 - b) Initial Expression Of Interest Form

3 Risk Assessment

Risk Matrix

Description	Likelihood	Impact	Overall
The key risk is that the Council fails to adopt a Community Asset Transfer policy that encourages and facilitates Community Groups where appropriate to take on leasehold or freehold ownership and management of buildings	5	3	15
The mitigation for this will be adopting a policy which is supportive and encourages engagement with Community Groups	2	3	6

Risk Scoring Matrix

Like liho	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
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	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
Impact							

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

4 Background and Full details of the Report

4.1 Implementation of the Community Asset Transfer (CAT) policy started in July 2014.

4.2 The draft policy was sent out for consultation in August / September 2014 to local Community Groups, Parish Councils, Town Councils and made available in various libraries for comment. The result of the consultation came back with various concerns as follows:

- a) The policy was long and complicated
- b) It focused on transfers only by way of leasing out property
- c) There was no indicative timetable for progress of a CAT application
- d) It seemed to focus on the transfer of non-profitable assets and merely for community bodies to take on the cost of maintaining and running them
- e) The policy also appeared to have too much Council control with the Council being able to take back the asset if a use was found which could make it viable.
- f) It was not in the spirit of the Localism Act.

4.3 Following on from receipt of the summary of replies to the consultation process, the decision was taken to comprehensively reassess the draft policy to take into account the issues raised in the replies along with other work already undertaken. It was also decided to look further at the CAT Policies already adopted by other Councils and also discuss with their representatives their CAT policy and factors they took into consideration when implementing their CAT policy. The Council looked at the existing

CAT policies of half a dozen other Councils and spoke to a couple of Councils directly regarding their approach to how they went about finalising and implementing their policies. The result of this was that the original draft policy has been redrafted reflecting the responses to the consultation and the comments and basis of other Councils CAT policies and wider research and consideration of requirements.

- 4.4 A revised draft policy and the newly formulated Expression of Interest Form (EOI) was presented to Community Scrutiny Committee on 1st September 2015 seeking support from Community Scrutiny to go out to public consultation based on that revised draft. A further report with draft policy (amended as necessary) and summary of responses would then come back to Members with a recommendation that it be adopted. Community Scrutiny Committee expressed concern as to the limited extent of the earlier public consultation exercise. It was agreed that a revised list of potential consultees be compiled and circulated to Members of the Committee before the further consultation be commenced.
- 4.5 Asset Management liaised with the Council's Housing and Community Project Lead to prepare a comprehensive consultee list which was then circulated to Members to review and comment. On receipt of these responses arrangements were made for the consultation to commence.
- 4.6 The final list of consultees comprised:
- a) Councillors: County, Town and Parish as well as Member of Parliament (approx. 106)
 - b) Education Organisations (approx. 2)
 - c) Faith Groups/Churches (approx. 43)
 - d) Internal Officers (approx. 15)
 - e) Partner Organisations (approx. 12)
 - f) Voluntary & Community Organisations (approx. 165)

For Taunton Deane Borough Council, a total of 343 consultees were consulted by email directing them to the Council's web site.

- 4.7 The consultation questions were redrafted reflecting the responses received previously, trying to achieve a more specific and user-friendly consultation. A copy of the consultation questionnaire is attached (appendix A).
- 4.8 The consultation for the CAT policies for Taunton Deane Borough Council and West Somerset Councils ran in conjunction from 9th November 2015 to 15th January 2016, a period of just over two months. The consultations were accessed on-line on the webpages of the respective Councils, as well as in weekly/monthly/community newsletters, advertised on the council's social media and hard copies of the policies and the consultation were left in both Council offices, as well as libraries across Taunton Deane and West Somerset geographical areas. The consultation had a wide exposure, seeking to obtain representative views of the public.
- 4.9 The Council received a total of 27 responses to the Community Asset Transfer Consultation giving a response rate of 7.9%. Attached as a confidential appendix is a spreadsheet detailing all responses (CONFIDENTIAL appendix B) with a row dedicated to each response. Please note that whilst this was a joint consultation exercise with West Somerset Council, all statistics quoted relate only to this Council.

- 4.10 The consultation was answered by a variety of respondents, ranging from Community Groups working outdoors, to individuals, to Allotment Associations to local town and parish councils as detailed below:
- a) (37%) Individual
 - b) (11%) Community Group
 - c) (7%) Voluntary Sector Organisation
 - d) (15%) Social Enterprise/Not-for-profit Organisation
 - e) (26%) Town/Parish Council
 - f) (4%) Other
- 4.11 The first key theme of the consultation concerned whether the consultee believed that the policy would deliver wider public benefits as part of a CAT process. 67% answered 'Yes' and 33% answered 'No'. Of those answering no, there were concerns that:
- as these are public assets they should be owned and controlled centrally
 - that it was a way of pushing work and cost away
 - it will result in parish precepts increasing
 - insufficient funds available
 - concern about costs falling on local people
 - simply negating any of the Council's responsibility
 - no suitable income funding for unparished areas
 - will only deliver benefits if appropriate funding accompanies the transfer.
- 4.12 The second key theme of the consultation concerned whether the consultee believed the policy achieves the Council's Corporate Aims and Values. 63% agreed, 22% disagreed and the remainder didn't answer. Of those disagreeing there were concerns that:
- That the Council doesn't make enough allowance / recognition for personal and social enrichment
 - The corporate aims are wrong
 - All parts of the Borough should be treated equally
 - Volunteering will collapse and does not help develop green space management via volunteers
 - Would require ongoing support from the Council as failure might of a community use might conflict with the Council's aims and values.
- 4.13 The third key theme of the consultation concerned the Council's principles underlying the policy and as set out in section 4 of the policy, being to involve local communities, providing a pro-active asset management programme as well as giving clear transparency in decision making. Consultees were asked whether these principles would help us achieve a successful CAT policy. 63% agreed with the Council's principles, 19% disagreed and the remainder didn't answer. Of those disagreeing there were concerns that:
- A huge input would be needed from those with the necessary skills and this might make it difficult to find trustees
 - The Council shouldn't be asking for a share of any enhanced value
 - Considerable training would be needed by those taking on assets and there is no finance base or democracy
 - There would be insufficient funding for running costs

- 4.14 The final key theme of the consultation concerned the application criteria detailed in Section 5 of the CAT policy. 70% agreed with the applicant criteria, 15% disagreed and the remainder didn't answer. Of those disagreeing, there were concerns that:
- There would need to be accountability to local people
- 4.15 Other comments provided were as follows;
- List of available assets would be useful
 - Support would need to be given to help local groups through the process
 - Must not transfer an asset which then becomes a liability and the Council must provide sufficient detail on the condition of the property and arrange a proper hand-over
 - The Council is cascading responsibilities whilst refusing to release hold on value
 - Importance of informing a Parish Council should an application be received within their Parish
 - Applications must be open to Churches
 - For open spaces, difficulty in attracting revenue, difficulty in finding volunteers and those with necessary skills
 - Early warning to be given by the Council if it intends to close a facility
 - Lack of skills outside of Council
- 4.16 It is apparent that some of consultees are very supportive of the Council transferring assets, albeit perhaps concerned about ongoing liabilities, lack of ongoing support from the Council but a continuing 'interest' in the land by the Council. Others believe that assets should be retained by the Council.
- 4.17 Following the consultation, the on-line responses, a comprehensive response by email from Milverton Parish Council (appendix C) and a review by the Council's Professional Head of Service for Law & Governance a number of amendments have been made to the policy. For ease of reference these are shown on the attached proposed policy as highlighted in yellow - (appendix D).
- 4.18 The Initial Expression of Interest Form attached (appendix E) is unchanged following this consultation.
- 4.19 Depending on the nature of the transfer, it is quite possible that side documents will need to sit alongside the transfer relating to any continued involvement by the Council.
- 4.20 The transfer of assets to community groups does have the potential to create opportunities for these groups to commission the DLO or other Services to support them post transfer.
- 4.21 This matter was considered by Community Scrutiny Committee on 1st March 2016 who supported the recommendation.

5 Links to Corporate Aims / Priorities

- 5.1 See Section 3 of proposed CAT policy (attached).

6 Finance / Resource Implications

- 6.1 There are no new financial implications to be considered. Financial implications will relate to individual decisions and not the wider policy itself.

7 Legal Implications

7.1 Shape Law & Governance have reviewed and commented on proposed CAT policy

8 Environmental Impact Implications

8.1 None

9 Safeguarding and/or Community Safety Implications

9.1 None

10 Equality and Diversity Implications

10.1 There are no decisions in this report that require an impact assessment.

11 Social Value Implications

11.1 This proposal does not involve procurement of services.

12 Partnership Implications

12.1 None

13 Health and Wellbeing Implications

13.1 None

14 Asset Management Implications

14.1 This report originates from Asset Management

15 Consultation Implications

15.1 A thorough consultation exercise has taken place as detailed within the report which has led to the proposed CAT policy, attached

Democratic Path:

- **Scrutiny / Corporate Governance or Audit Committees – Yes**
- **Executive – Yes**
- **Full Council – Yes**

List of Appendices

Appendix A	Consultation Questionnaire
Appendix B	CONFIDENTIAL – Consultation Responses
Appendix C	Response by Milverton Parish Council
Appendix D	Proposed CAT policy (with its own Appendix A)

Contact Officers

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APPENDIX A

Community Asset Transfer Policy Consultation

Taunton Deane Borough Council and West Somerset Council believe that Community Asset Transfer can have a significant impact on community enterprise and wider regeneration. We are committed to working with parish/town councils, the voluntary sector and community groups on community asset transfer, to encourage community ownership of and involvement in local service delivery.

Locality provides support and advice for communities about Community Asset Transfer. For more information, please visit:

<http://locality.org.uk/our-work/assets/>

We are keen to gather the views of individuals, parish/town councils, the voluntary sector and community groups in Taunton Deane and West Somerset, regarding the Councils Community Asset Transfer Policy.

Consultation timescale: Starts on Monday 9th November 2015 and closes on Friday 15th January 2016.

When picking up a copy of the Community Asset Transfer Policy Consultation, please also pick up a copy of the policy relevant to your council to assist you with the consultation.

This information will help inform the final policy which we intend to adopt early next year. The aim of the Community Asset Transfer Policy is to set out a consistent approach for consideration of the transfer of assets (land and buildings) to parish / town councils, the voluntary sector and community groups. The Councils will consider each request by reference to the policy but at the same time also taking into account the specifics of the proposed use and the asset itself.

Q1. To ensure we understand the views of individuals/groups in different areas of Taunton Deane and West Somerset, please provide your postcode.

- TA1
- TA2
- TA3
- TA4
- TA7
- TA20
- TA21
- TA22
- TA23
- TA24
- Other (please state below)

Q2. Are you responding to the survey as an individual or on behalf of an organisation/group?

- Individual
 - Community Group
 - Voluntary Sector Organisation
 - Social Enterprise/Not-for-profit Organisation
 - Town/Parish Council
 - Other (please specify below)
-

Q3. Who does your organisation/group represent?

Q4. The Community Asset Transfer Policy is aimed to help parish/town councils, the voluntary sector and community groups considering taking on the management and running of council assets. Do you believe that this policy will help deliver wider public benefits as part of a community asset transfer process?

- Yes
- No

If No, please can you explain why

Q5. Section 3 sets out our Corporate Aims and Values. Do you agree/disagree that the Community Asset Transfer Policy achieves our Corporate Aims and Values?

- Agree
- Disagree

If you disagree, please explain how this policy does not meet our Corporate Aims and Values.

Q6. Our principles underlining the Asset Transfer Policy outlined in Section 4, are aimed at involving local communities, providing a pro-active asset management programme as well as giving clear transparency in decision making. Do you believe these principles will help us achieve a successful Community Asset Transfer Policy?

- Yes
- No

If No, please can you explain how/why these principles will not help achieve a successful policy and what other principles the Council should consider?

Q7. Within the Community Asset Transfer policy, there is a list detailing the applicant criteria shown in Section 5. Do you agree/disagree with this criteria for applicants wishing to manage a Community Asset?

- Agree
- Disagree

If you disagree, please can you explain why.

Q8. Please use the space below if you have any other comments about the draft
If you are a Parish/Town Council, a Voluntary Sector or Community Group
or Not-for-profit Organisation, please DO NOT complete Questions 9 to 12.

About You:
(Optional)

Q9. Are you:
 Male

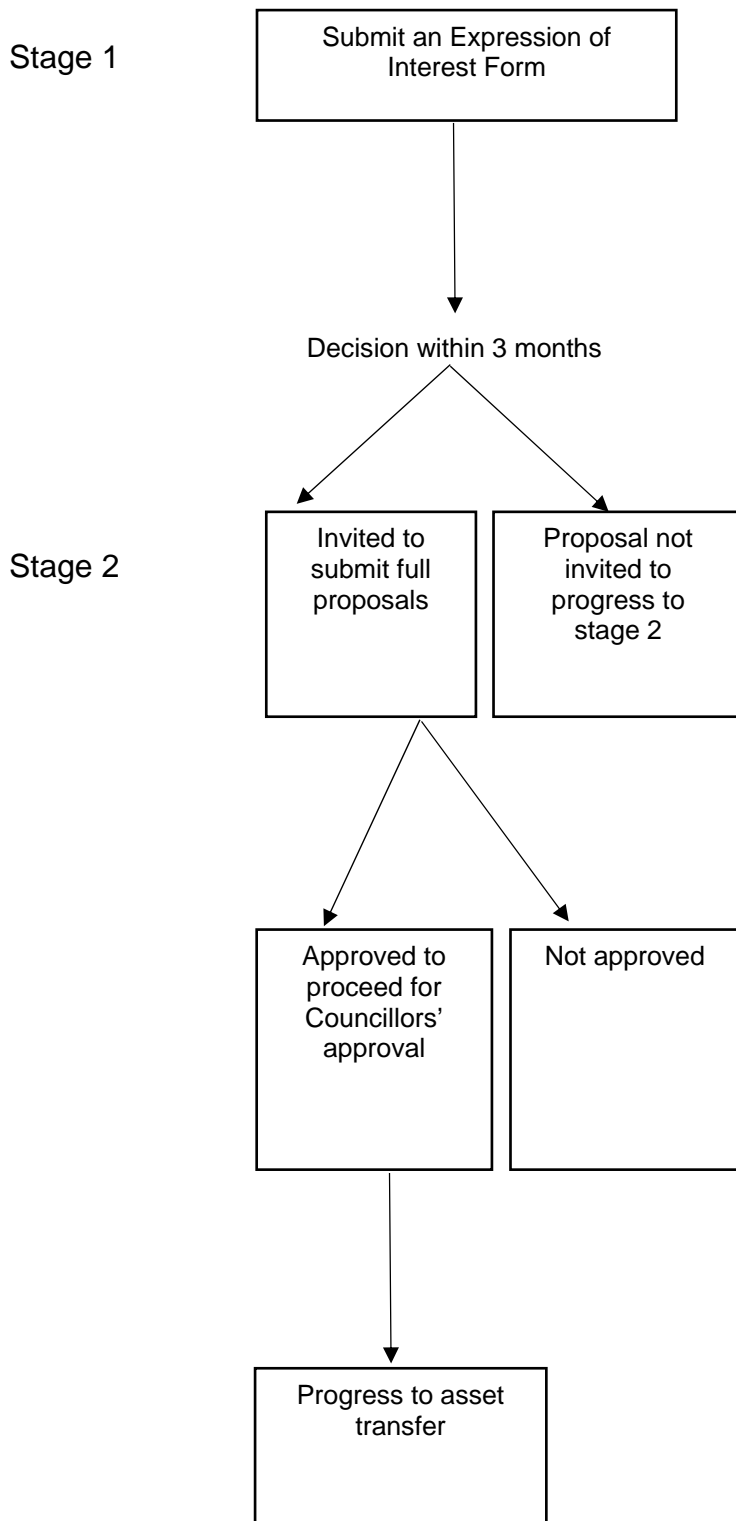
End of Survey

Thank you for taking part in the Community Asset Transfer Consultation.

If you need further information about the Councils and the services we provide, please visit: www.tauntondeane.gov.uk and www.westsomersetonline.gov.uk

If you have completed a paper copy of this survey, please return to:
Corporate Business Support
Taunton Deane Borough Council
The Deane House
Belvedere Road
TAUNTON
TA1 1HE

Appendix A- Process for progression of an application for a Community Asset Transfer



Appendix C

TAUNTON DEANE BOROUGH COUNCIL COMMUNITY ASSET TRANSFER POLICY

Comments on Consultation by Milverton Parish Council

Introduction

Milverton Parish Council welcomes the introduction of a specific policy to cover the transfer of TDBC assets to lower tier Councils and Community Groups.

Summary

The overall thrust of the paper is positive in that it pre-supposes that all transfers will be between willing partners. However, the current economic climate is forcing higher tier authorities to cut back services which is leading to a situation where they are unilaterally terminating services with the only option for continuation being their adoption by hard pressed parishes and community groups. Unfortunately this paper does not handle the 'forced' migration of services and the assets required to support them quite so well. Indeed, this policy seems to stand alone whereas in reality its purpose is to allow asset transfer that facilitates continued service delivery at a community level. It therefore needs to be accompanied by sister documents that relate to TDBC's involvement beyond the asset transfer itself as well as other asset related matters.

Detailed Comments

Dealing with the paragraphs in detail:

2.0 Purpose of the Policy

2.2 Benefits to the local community, Community Groups and the Council

This comprises a series of bullet points designed to highlight the benefits that all parties and stakeholders will receive. However, several make reference to TDBC working in partnership with the communities groups etc.

Without wanting to be overly negative TDBC is faced with severely declining resources and so its ability to maintain an active role in future partnership working has to be in doubt. Therefore, this policy needs to be accompanied by a strong statement that such partnership activities will be prioritised by TDBC so that the implied support for those communities and groups does not simply wither away. Milverton Parish Council recommends that this be achieved through a legally binding Service Level Agreement (SLA) for a minimum of 10 years.

Additionally it needs to be recognised that the transfer of an asset is the equivalent of a capital grant which does not take account of the revenue implications of managing and maintaining that asset. All parties therefore need to recognise that unless there is a clearly defined and guaranteed income stream that can feed and maintain a maintenance budget there will be a long term risk to that asset. For community groups the implications of VAT at 20% also need to be taken account of.

Milverton Parish Council recommends that TDBC considers offering an 'at cost' maintenance

service for transferred assets through the DLO. This could be through a service charge within an SLA which could avoid VAT. However, there would need to be some sort of review process to take account of escalating costs to avoid assets being maintained beyond their practical life.

There is a statement which implies that transferred assets could be run more cheaply than by TDBC leading to efficiency savings and diversification of public services. This is somewhat disingenuous since TDBC is a large organisation with a set up to run these assets whereas any reduction in running costs by community groups is likely to be as a result of volunteers. Reliance on volunteers is at best an uncertain way forward and furthermore there is no guarantee that volunteers would have the expertise to run the assets as well as TDBC.

2.3

This is a welcome statement.

Milverton Parish Council recommends that it forms the basis of a public Asset Management Annual report.

3.0 Local Policy Context and Links to other Council Strategies

3.1

As set out above the direction of the Policy seems to be at odds with the Key 'Business Principle' that TDBC will ensure (my emphasis) the delivery of accessible quality services at good value for money.

It is the view of Milverton Parish Council that whilst the aim is worthy, delivery cannot be ensured if the Council surrenders control of the asset in question. There is a real tension here that has the potential to cause problems because if something that is at 'arms length' begins to struggle TDBC could try and enforce delivery regardless of the capacity of the community group. Milverton Parish Council recommends that there needs to be a protocol to cover unforeseen difficulties. Options should range from providing support to assisting close down.

4.0 Principles Underpinning the Asset Transfer policy

4.1

The second bullet of the Commitment to a Thriving Community & Voluntary Sector states that asset transfer will enable (my emphasis) Community Groups to become sustainable on a long term basis. As set out above the transfer of an asset is little more than a capital asset with no revenue to support it so sustainability cannot be guaranteed.

Ordinarily, groups and parishes might seek to raise funds against an asset. However, given the thrust of this policy that TDBC retains freehold ownership through a lease or a veto over the future transfer of freehold assets this avenue is effectively closed off.

So, despite TDBC's wishes, funding the running costs of these assets will have to come from the organisations primary income which is bound to be an influence on its long term sustainability.

Milverton Parish Council recommends that TDBC is sensitive to this and as well as assistance with 'at cost' maintenance, TDBC's partnership contribution should involve giving transferred assets an exemption from Business Rates.

The second section deals with Pro-active and strategic asset management intent which states that the Policy will also be an option for dealing with surplus assets.

Milverton Parish Council recommends

- a) That the criteria for deciding whether to offer to communities or commercial marketing are incorporated in this Policy as an Annex.
- b) That TDBC publishes a map of all its land and assets to provide community groups and organisations with as much information as possible to assist negotiations and decision making.

5.0 Who Can Apply?

5.1

Under the section Who Can Apply there are various sensible bullet points including one about Groups having the right skills to provide the service and manage the asset. This latter point is of fundamental importance and needs to be backed up with support from TDBC if needed.

6.0 Basis of Transfer

6.1

This paragraph allows TDBC to exercise a degree of control over the asset after disposal. While this may be appropriate for mutually agreeable transfers it is not for instances where TDBC is looking to save money by cutting services, and the only option to retain them is for a parish or community group to step in. This 'forced cascade' of services means that TDBC is effectively abdicating its responsibility for that service delivery, in that location. Under those circumstances groups and parishes need as much freedom and flexibility as possible to run the operation. There can be no guarantees that a community or parish could run a service in perpetuity and if it became unaffordable they would need to be able to close down the operation and recoup what costs they could. Although it may be regarded as 'standard practice' for TDBC to retain control (and by implication) regain freehold ownership these are not standard times and any group or parish must be able to have the freedom to manage, close or dispose of the asset as its circumstances dictate.

6.2

On the point of maintenance Milverton Parish Council notes that the Policy seems to be silent on the condition of the assets to be transferred. Whilst legal fees are mentioned it is imperative that TDBC undertakes a full structural survey and carries out any identified remedial work before transfer.

Milverton Parish Council recommends that as part of the Expression of Interest process TDBC must commission a full structural survey which must include items of concern to be kept under review. This report must be made available to the Community Group as part of the response to the Expression of Interest.

6.5

The requirement for a statement of community benefit should not be onerous.

Milverton Parish Council suggests that the organisations annual report should suffice accompanied by accounts or budget figures.

Milverton Parish Council feels that would also be useful for TDBC to state what it will do with

this information. Ideally it should be the basis for an annual SLA meeting with officers but if resources are tight there is no point in producing a report that no-one will read.

7.0 How to Apply and How We Will Assess

7.1

Firstly, Milverton Parish Council notes that it and several other Parishes are in negotiation with TDBC over the transfer of Public Toilets. If adopted will this Policy be the basis for taking those negotiations forward? If so it means taking negotiations back to square one and, given that the process is likely to take up to 18 months, Milverton Parish Council would like to know what contingency plans there are for keeping the toilets open until negotiations are concluded.

7.2

Bullet 7 requires an analysis of resource and budget projections.

Money is likely to be the single biggest issue with any transfer.

Milverton Parish Council recommends that:

- a) TDBC publishes the criteria for assessing financial sustainability as an annex to this Policy and
- b) Requires this information first so that organisations can establish financial stability before providing full details on the other aspects of the case.

8.0 Key Stages and Indicative Timescales

8.1

The most important aspect of this is the indicative time for the process. The Policy sets out 3 and 9 month periods for Stages 1 & 2 but Stage 3 is open ended. Milverton Parish Council considers that the agreement of Heads of Terms and lease/conveyance will take a minimum of 6 months and potentially longer depending on the legal make up of the acquiring body.

It is therefore very important that any disposal policy acts in harmony with TDBC's business cycle. For example, there will be problems if the TDBC decides to dispose of a service and assets such as public toilets as part of an annual budget settlement if the Asset Transfer policy cannot give continuity of service by a third party for at least 18 months.

Milverton Parish Council therefore recommends that TDBC undertakes budget forward planning on a three year cycle, to a level of detail that allows services and assets for disposal to be identified sufficiently far in advance to allow Expressions of Interest and transfer to take place before the savings are accounted for in the budget.

9.0 Community Right To Challenge

9.1

Milverton Parish Council does not see sufficient differentiation between the Community Asset Transfer process and the Community Right to Buy process to warrant total separation. Both policies are complementary in that they involve TDBC disposing of assets to a third party. Whilst the criteria for applying and success may differ Milverton Parish Council recommends that both policies be enshrined in a single document that covers Asset Disposal by TDBC.

TAUNTON DEANE BOROUGH COUNCIL COMMUNITY ASSET TRANSFER POLICY

1.0 INTRODUCTION

1.1 Taunton Deane Borough Council (TDBC) believes community asset transfer is about giving local people and community groups control in the future of their area. In England the idea was introduced through the Quirk Review (DCLG 2007) and now **has legislative force via** the provisions of the 2011 Localism Act. If local groups own or manage community buildings and land it will help foster a sense of belonging and bring together people from different backgrounds. Community ownership and management 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.

2.0 PURPOSE OF THE POLICY

2.1 This policy outlines the Council's approach to Community Asset Transfer (CAT). The term 'community asset transfer' relates primarily to granting long-leases or passing on the freehold of property assets at potentially less than best financial consideration to voluntary, community organisations, Parish Councils, Town Councils and social enterprises (Community Groups).

2.2 **Benefits to the local community, Community Groups and the Council:**

- Devolving power to neighbourhoods or locally based Community Groups 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 economic activity at a local level.
- Potential to create stronger, more sustainable Community Groups, 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.

- Working in partnership with Community Groups 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 Community Groups and the Council and improving the provision and accountability of services within communities.

2.3 The Council recognises the many benefits of CAT 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 to Community Groups to happen and be successful in the long term.

2.4 Where the Council is to work in partnership with Community Groups post transfer, in some instances the Council might consider formalising this aspect contractually as part of any transfer.

3.0 LOCAL POLICY CONTEXT AND LINKS TO OTHER COUNCIL STRATEGIES

3.1 The operation of this Policy will need to have regard to the desired outcomes of other relevant Council policies and strategies and is set out in the Council's Corporate Business Plan 2013-2016.

Our Vision

Taunton Deane is known nationally and locally as a quality place that is growing and sustainable, with a vibrant economic, social and cultural environment.

Our Corporate Aims

Taunton Deane Borough Council has four corporate aims, they are:

- Quality & Sustainable Growth and Development
- A Vibrant Economic Environment
- A Vibrant Social, Cultural and Leisure Environment
- A Transformed Council

Our Key 'Business Principles'

- **Quality Services** - ensuring the delivery of accessible, quality services that provide good value for money (either as direct providers or through partnership)
- **Customer Driven** - we will put the needs of our customers at the heart of all that we do
- **A dynamic organisation** - innovative, forward-looking and focused on results
- **Environmentally Responsible** - we will minimise the environmental impact from our operations

4.0 PRINCIPLES UNDERPINNING THE ASSET TRANSFER POLICY

4.1 The CAT Policy will be underpinned by the following principles:

Commitment to a thriving Community & Voluntary Sector

- The Council recognises that community led solutions can sometimes achieve better outcomes than central initiatives.
- Use asset transfer as a means of **supporting** Community Groups to become sustainable on a long term basis.
- CAT will require a long term partnership commitment on the part of the Council and the Community Group. This is the best way of minimising the risk of failure.
- Flexible lease terms to enable Community Groups to adapt and achieve long term sustainability or the transfer of the freehold interest.
- Measurable and accountable benefits to local people.
- The Council expects that the benefit from this Policy will encourage openness, conversation and understanding between groups and wider community.

Pro-active and strategic asset management intent

- CAT will become integrated in Council practice as an option for dealing with surplus property assets.

Clarity and transparency in decision-making

- A single gateway approach is taken, providing a clear point of contact for Community Groups with CAT enquiries.
- The Council will encourage Community Groups to consider taking on an asset.
- Community Groups 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 Community Groups which may be area based around communities of geography, identity or shared interest. Ideally, all applicants should meet the following criteria:

- Be community led and demonstrate support for the CAT and have clearly defined objectives which would be enhanced through the addition of the asset in question.
- The primary purpose must be non-commercial or with profits invested back into local communities.
- Must have a clear vision of the activities they wish to deliver, demonstrating positive measurable impacts.
- Demonstrate good governance operating open and accountable processes, a constituted governing board who follow 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 deliver services and manage the asset to be transferred.
- Demonstrate the asset will be run without Council subsidies or support.
- A sustainable operating model for revenue requirements, use and maintenance will be needed.
- Demonstrate how asset transfer will support the aims and priorities of the Council.

6.0 BASIS OF TRANSFER

- 6.1 Community Groups may need to provide contractual assurances to ensure that the asset is retained for community benefit. If this 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 **although there might be exceptions**.
- 6.2 The Council will offer legal agreements to enable Community Groups to manage and develop the property as an asset ensuring the use of the asset as a community asset is retained by the applicant. Consideration to payment of professional fees and whether the Council seeks reimbursement for its own costs will be on a case-by-case basis.
- 6.3 The Council will pursue Freehold or Leasehold arrangements with the term being set after carefully considering the needs of the Community Group, the position of the Council, the condition of the asset and the requirements of potential funders or lenders. As a guide:
- 6.4 Freehold Transfer – will be considered if preferred. 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 and is beneficial to the Council.
- Transfer by Lease - A lease for a term of up to 35 years (a lease longer than 35 years may be granted if appropriate and if a business case demonstrates special circumstances or requirements from funders/lenders).
- 6.5 Community Groups will be expected to produce a statement of community benefit on an annual basis – **annual report accompanied by accounts as appropriate will usually suffice**. The benefits to be realised shall be agreed in advance and incorporated into a Service Level Agreement with the Council.
- 6.6 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.
- 6.7 The Council will ensure that information relating to the condition of the property and running costs is passed to the applicant to support decision making.**

7.0 HOW TO APPLY & HOW WE WILL ASSESS

7.1 Community Groups should in the first instant submit an Expression of Interest Form to the Council for an in principle decision on the proposed Transfer. The Expression of Interest Form is found here:- [Link to CAT EOI Form](#).

7.2 If after submitting an initial Expression of Interest, the Council deems the application to be unsuccessful the applicants will be advised directly. 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 detailed below. This is only a guide and will be dependent on each particular case.

- 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 community, together with 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)?
- 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 the Council in promoting community cohesion.
- 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). The long term financial sustainability of the proposal should be clearly demonstrated **along with recognition of implication of any reduction in income stream.**
- 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).

8.0 KEY STAGES AND INDICATIVE TIMESCALES

8.1 In considering the potential for asset transfer the Council will follow the process already detailed with the following indicative timescales.

- 8.2 The Executive Portfolio Holder will retain an overall responsibility for Executive guidance to ensure a strategic decision is taken supporting community needs and Council objectives.
- 8.3 The timeline set out below is purely indicative and will vary depending 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. This process and timeline is further explained in Appendix A. **The process of Asset Transfer takes time and therefore must be fully understood by the Council and reflected in decision making in respect of budget settlement.**

8.4 **1. Request – from Community Group**

Submit a request for a transfer by completing an initial Expression of Interest Form. If an application is deemed unsuccessful after this stage the Council will inform the applicant of its decision and reasons. A response will be provided within three months. This decision will be made by the relevant Executive Portfolio Holder in consultation with others as deemed appropriate and following an Officers recommendation.

8.5 **2. Preparation and consideration of Full Business Case**

If the application is considered for progression then the body making the application will be asked for a Detailed Business Case. The Council will verify the credentials of the Community Group and ensure that if appropriate other parties in the area are aware, consulted and have been able to make representation. An officer recommendation will be made to the relevant Executive Portfolio Holder and the matter taken to Members for a decision. This step is expected to take no longer than six months. If unsuccessful the applicant will be informed. If successful then the process will move to the next step. In all cases the Ward Member will be informed and views sought

8.6 **3. Processing detailed Heads of Terms**

The decision above will be ‘in principle’ and will be a decision to proceed and consider (if not already done so) the basis and terms of the asset transfer and determine potential level of market discount, length and condition of lease or if appropriate the transfer of the freehold interest. **Concluding this step will result in completion of documentary and legal formalities.**

8.7 **4. Ongoing Partnership and Support**

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

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 within the locality Register of Community Assets 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 Community Right to Challenge processes are separate from the Community Asset Transfer Policy process.



Appendix E
Taunton Deane Borough Council

**Transfer of an Asset owned by the Council to a Community Group by way of
Community Asset Transfer
Initial Expression of Interest Form**

Please fill in this Initial Expression of Interest (EOI) if you want to be considered by Taunton Deane Borough Council (TDBC) to take over a building or area of land owned by TDBC to run a service of benefit to your community.

Before you start.....

Helpful tips:

In completing your EOI it is important for you to consider:

- the real purpose behind your activity – any benefit to the community – and not just describe the activity you want to do;
- how you will demonstrate there is real local need for what you intend to offer;
- if there are other assets within your community which already offer the same activities;
- what skills and experience you need to have to reach your goals;
- how you will raise the funds to meet your expenses.

N.B. if you do not want to run a community service from the building or land it does not mean that you will not be considered – it only changes the type of transfer which applies. (see Type of Asset Transfer below)

Please indicate the type of transfer you are considering:

The Council can transfer a building or land it owns to an individual or group in a number of ways. You can consider what would suit you best for consideration by the Council. *(it is possible to select more than one box)*

- Sale – at full market price (the “going rate”)
- Sale – at a discounted price (subject to approval and conditions)
- Lease – taking all responsibility for the building for a set period of time. A rent – on top of the running costs – may be charged.
- Hire – casual use paying only for the time occupied.
- Transfer, subject to conditions (also known as a Community Asset Transfer) – can be below the “going rate” or free. **Only available for community use.**

Please email this Initial Expression of Interest form to: XXXXXXXXXXXXXX or alternatively, post it to: Assistant Director – Property and Development, c/o The Deane House, Belvedere Road, Taunton, Somerset, TA1 1HE.

If you have any further questions, please call: 01823 356534

Asset Transfer - Initial Expression of Interest

1. You or Your Organisation's name and address:

Name of group:	
Address: (include Postcode)	

2. Who is the main point of contact for this application?

Name:	
Position in group:	
Phone number:	
Email address:	
Address: (include Postcode)	

3. Your status

- Parish or Town Council
- Registered Charity
- Company Limited by Guarantee
- Community Interest Company
- Development Trust Association
- Private individual
- If other please state: _____.

4. Please provide further information to confirm that your organisation is a relevant body (e.g. company registration number or charity registered number).
If your organisation is not formally constituted, please give details of the type of organisation/legal structure you intend to use and timescales involved in setting this up (N/A if proposal is from a Town or Parish Council).

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5. Please outline name and location of Council asset identified?

Name and Address: (include Postcode)	
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6. Who is your local Councillor and have they been informed of this proposal?

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7. Which Council services does your organisation support/work with:

(please provide manager name if known)

8. Why do you want this asset?

9. Please describe your vision for the future use of this asset:

10. Please explain why this asset is suitable for the intended purpose:

11. How will this benefit the local community?

12. Please describe any evidence of community need undertaken to-date:

13. How do you propose to ensure the financial sustainability of the asset:

The information you provide in this form and any referenced supporting material will be the basis upon which the Council decides whether to progress to asking you to provide a full business case. If any information provided is beyond the scope of the information requested here, it will not be used as grounds to accept or reject your EOI and may not be considered.

- All information provided should be clear and concise.
- Responses to the questions and supporting materials can either be:
 - Inserted in the boxes below each question;
 - Attached as a Schedule to the form; or
 - A link to an embedded Word document can be inserted in each box
- All responses and supporting materials must be fully cross-referenced.
- Information and supporting materials will not be accepted on CD roms, flash drives or any other portable device.

- The Council will not accept an EOI submission by fax.
- If a possible transfer is identified as a result of completing this form, a more detailed business case will then need to be completed.

Please note: We will process all information received in accordance with the Data Protection Legislation for the purposes of administering this procedure. The Council is subject to the Freedom of Information Act 2000 and therefore any information provided by you may have to be disclosed in response to a request unless we decide that one of the statutory exemptions applies.

By signing your name here (if submitting by post) or typing it (if submitting electronically) you are confirming that:

- The responses to the questions set out in this form and the supporting materials are accurate.
- The information provided will be used to assess your organisation's proposal to provide or assist in providing the relevant service.
- You are authorised to sign on behalf of your organisation.

Signature:		Date:	
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