

# Taunton Deane Borough Council

## Council Meeting – 12 April 2016

### Part I

To deal with written questions to, and receive recommendations to the Council from, the Executive.

### (i) Councillor Mark Edwards

#### Community Asset Transfer Policy

The Executive had recently considered a report concerning details of the recent consultation exercise completed in respect of the Council adopting a Community Asset Transfer (CAT) Policy.

The draft Policy had been consulted upon between 9 November 2015 and 15 January 2016 to a wide list of consultees which comprised:-

- o Councillors: County, Town and Parish as well as the Member of Parliament;
- o Education Organisations;
- o Faith Groups/Churches;
- o Internal Officers;
- o Partner Organisations; and
- o Voluntary and Community Organisations.

The Council had received a total of 27 responses giving a response rate of 7.9%.

The key themes of the consultation concerned:-

- (i) Whether the consultee believed that the Policy would deliver wider public benefits as part of a CAT process;
- (ii) Whether the consultee believed the Policy would achieve the Council's Corporate Aims and Values;
- (iii) Agreement as to the principles underlying the Policy which sought to involve local communities, to provide a pro-active asset management programme as well as giving clear transparency in decision making. Consultees were asked whether these principles would help the Council achieve a successful CAT Policy; and
- (iv) Acceptance of the application criteria set out in the CAT Policy.

Each of these key themes had attracted support in excess of 60%.

Although it was generally apparent that the majority of the consultees were supportive of the Council transferring assets, there was concern about continuing liabilities, lack of ongoing support from the Council but a continuing 'interest' in the land by the Council. Others believed that assets should be retained by the Council. As a result of the consultation, a number of amendments have been made to the proposed CAT Policy.

Noted that the transfer of assets to community groups would have the potential to create opportunities for these groups to commission Deane DLO or other services to support them post transfer.

This matter had been considered by the Community Scrutiny Committee on 1 March 2016 where the CAT Policy was supported.

**Resolved** that the Community Asset Transfer Policy and the Initial Expression of Interest Form - copies of which are attached – be adopted by the Council.



## 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. 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.



## 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: [XXXXXXXXXXXXXXXX](#) 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).

--

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

Name and Address:	
-------------------	--

(include Postcode)	
--------------------	--

**6. Who is your local Councillor and have they been informed of this proposal?**

--

**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.

<b>Signature:</b>		<b>Date:</b>	
-------------------	--	--------------	--