

## Carlisle City Council Community Asset Transfer Policy

### 1. Introduction

- 1.1 This policy outlines the Council's approach to Community Asset Transfer. The aim of this policy is to provide a set of guidelines to be considered in the transfer of assets from the Council to other bodies where the transfer is on a non-commercial basis. There are two options for transfer: as a one off permanent disposal or transfer by way of a long lease. This policy also outlines the process to be used in such transfers.

### 2. Context

- 2.1 Asset transfer has continued to develop through Government policy to create sustainable communities, empowerment and regeneration (e.g. Community Empowerment White Paper (2008). The Quirk Review (2007) found that many councils were not using the powers to their full benefit and strongly advocated in favour of local ownership and management of public assets. The Localism Act (2011) devolved decision making powers to neighbourhood level and promoted new rights for communities, further encouraging people to play a more active part in society and opening up public services to the voluntary and community sector, social enterprises and the private sector.
- 2.2 The Council is committed to working with our communities to improve the health, wellbeing and economic prosperity of the people of Carlisle<sup>1</sup>. We work in partnership to empower communities, diversify how services are provided and enable greater public scrutiny and accountability. The Asset Management Plan (AMP) 2017-2022 supports this in the strategic objective to, *"Encourage community and partnership use of assets by identifying opportunities for shared services, liaising with partners and working with the community."*<sup>2</sup>

### 3. Policy Statement on Community Asset Transfer

- 3.1 The Council is committed to using its assets to form long-term partnerships with organisations that meet our criteria and where they will bring benefits to communities.
- 3.2 For voluntary and community sector organisations, asset transfer can strengthen an organisation's confidence and give them the opportunity to develop an asset to meet the community's needs and aspirations, whilst providing opportunities for income generation and funding. It can be a part of supporting and sustaining local communities, ensuring that assets can be operated by the people who regularly use them.

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<sup>1</sup> [Vision, Carlisle Plan 2015-18](#)

<sup>2</sup> [Full Council, 12 September 2017](#)

- 3.3 Asset transfers also create the opportunity for investment that may not be possible within Council ownership and can provide a catalyst for inward investment through local purchasing and employment. It can contribute to our objective to rationalise our estate and facilitate more effective and efficient use of our asset base. Transfers can also be a stimulus for partnership working between voluntary and community sector organisations, the Council and other partners, improving provision and accountability of services within communities, which in turn helps us to achieve the priorities set out in the Carlisle Plan.
- 3.4 The Council recognises that asset transfer is not suitable for all properties or all organisations. We will continue to work with local organisations to ensure that a range of tools, programmes and initiatives are in place to support the development of a strong and sustainable voluntary and community sector in the district.

#### **4. Guidelines**

- 4.1 The Council will use a transparent process to assess potential asset transfers. Each case will be considered on its own merits and the decision process will follow the normal process for Council decisions in accordance with the Council's constitution. The timescale for each case will vary, depending on the circumstances, and the Council will clearly define the expected timescales throughout the process. The guidelines below provide a framework for the consideration and decision making of asset transfers. Appendix 1 provides an overview of the Community Asset Transfer process.
- 4.2 While fully supporting the principle of asset transfer, we recognise that assets must remain under Council control to support the delivery of essential services or strategic priorities. The strategic importance of assets will vary from case to case but the contribution of the asset to the Council's finances and the impact on the Council's ability to deliver strategic objectives are key considerations.
- 4.3 The Council will decide if an asset is surplus and possibly available for a Community Asset Transfer if the asset is not needed to support its own requirements/objectives such as:
- a. Service delivery
  - b. Income generation or capital receipt
  - c. Future growth
  - d. Redevelopment aspirations
  - e. Any other reason (e.g condition)
- 4.4 There may be cases where Council properties do not provide an income but attract costs in upkeep and maintenance. The Council will also look for opportunities to transfer liabilities to other parties as part of an overall approach to transfers involving a package of assets and liabilities. In this

case the proportion of assets and liabilities and the balance of the financial impact are important considerations.

- 4.5 In implementing this policy the Council will have regard to its powers to transfer assets at below market value as given under [Circular 06/03: Local Government Act 1972 general disposal consent \(England\) 2003 disposal of land for less than the best consideration that can reasonably be obtained.](#)<sup>3</sup>
- 4.6 Organisations can approach the Council at any time and request a CAT. We will openly advertise opportunities for Community Asset Transfer and invite applications from the community once an asset is identified as suitable for asset transfer.
- 4.7 The Council will consider transfer of an asset to any organisation that makes a credible application, supported by an appropriate business plan, and demonstrates it has the skills and capacity to manage the asset and the associated legal responsibilities. The application should include details of:
- How the use of the asset will support the Council's priorities and benefit the community.
  - Cash flow and budgeting details.
  - Capacity of the organisation to manage the asset.
  - Experience and skills of the board/managing group.
  - Confirmation of the legal structure of the group and how the group will hold the asset.
  - Succession planning to ensure the organisation maintains the right skills and knowledge to manage the asset.
- 4.8 It is prudent to consider the impact of a transfer on the Council. The preparation of a business case in the same way as for commercial transfers is a useful way of assessing the impact and benefits of a transfer to the Council. Benefits could be in the form of enhanced partnership working, improved community relations, reputation enhancement or as a means to unlock asset potential for the benefit of the community. The potential negative impacts could include financial implications, in particular hidden costs or opportunity costs arising as a result of the transfer. A business case will build confidence that the organisation is capable of managing the asset.
- 4.9 The level of support the community or body taking on an asset will need is an important consideration. This may be short term during the transfer or longer term and is part of the potential hidden costs mentioned in 4.8 above. The Council should be mindful of identifying a clear exit strategy at an early stage in the process so that all parties are aware of the end result and appreciate fully the implications. Consideration should also be given to how a worst case scenario is to be handled. For example the Council may wish to take back the asset if the project fails. The long term liabilities in this situation need to be considered with the lease structure, with obligations on both parties.

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<sup>3</sup> DCLG, [Circular 06/03: Local Government Act 1972 general disposal consent \(England\) 2003 disposal of land for less than the best consideration that can reasonably be obtained,](#) 2006

- 4.10 The benefit to the community should be assessed and quantified if possible. The transfer may be part of a package of measures to assist in community development. The guiding principle should be that the community can identify and buy into the benefit, for example if the possession of an asset allows them to attract funding. In some instances there may not be a benefit as in when the transfer is of a liability.
- 4.11 This policy covers a broad range of potential transfers of both assets and liabilities. There are therefore likely to be many technical issues involved ranging from physical maintenance, to planning implications as well as legal, HR and equality issues. All of these should be considered in the same way as for any Council decision. A full risk analysis should be carried out and controls identified for the significant risks where possible.
- 4.12 During the consideration period the Council and its partners may enter into a dialogue with the organisations who have submitted the application forms to seek clarification and additional information/evidence in support of the organisation's aspiration to acquire the asset. In certain circumstances the Council and its partners may ask a number of organisations to explore a collaborative bid for the asset.
- 4.13 CAT may be at less than Open Market Value. In practice a range of discounted values may be applied ranging from a nominal amount to a significant percentage of Open Market Value. As a minimum the Council should seek to recover its transaction costs, for example legal and surveyor fees.
- 4.14 A key aspect of the transfer is whether it is to be a one off permanent disposal or transfer by way of a long lease. The former offers a clean break with complete transfer of responsibility but it also means the Council loses all practical control of the eventual use of the asset. A long lease arrangement provides all of the benefits of a complete disposal in practical terms but it allows for the Council to retain some control of the asset in the longer term by way of restrictive covenants. In practice there may be situations where either approach may be the most appropriate. The Council should decide on its preferred model as a starting point while allowing for consideration of alternative approaches in particular circumstances.
- 4.15 The successful organisation will be required to sign legally binding documents in relation to them acquiring the asset. In the granting of a lease the Council will attach legally binding restrictions (covenants) to ensure the asset remains in community use and/or cannot be disposed of for financial gain.
- 4.16 Once the Community Asset Transfer is completed, the organisation acquiring the asset becomes responsible for:
- Operation of the asset in accordance with the terms of the lease and with all other legal obligations.
  - Compliance with any transfer agreement and any other agreements.

- Delivery of agreed outcomes.
- 4.17 The successful organisation will have to comply with the lease agreement, reporting to the Council's agreed representative. They will also have to comply with a periodic assessment conducted by the Council of them complying with their statutory obligations and any other conditions of acquiring the asset. Failure to comply with any of part of the agreement could result in the Council ending the lease and the organisation having to hand the asset back to the Council. Details of the other possible sanctions available will be contained in the signed legal documents, along with the details of the Council's agreed representative.
- 4.18 At the end of the lease the Council reserves the right to:
- Review the asset and decide it is no longer available for Community Asset Transfer and dispose of the asset at full market value or use it to meet another strategic objective of the Council.
  - Negotiate a new lease with the existing occupier.
  - Advertise the asset and invite fresh expressions of interest.