

<b>Subject:</b>	<b>Community Asset Transfer Policy</b>		
<b>Date of Meeting:</b>	<b>27<sup>th</sup> November 2017</b> 25 <sup>th</sup> January 2018 – Policy, Resources & Growth Committee		
<b>Report of:</b>	<b>Executive Director, Economy, Environment &amp; Culture and the Executive Director, Neighbourhoods, Communities &amp; Housing</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Angela Dymott</b> <b>Emma McDermott</b>	<b>Tel: 01273 291450</b> <b>01273 291577</b>
	<b>Email:</b>	<a href="mailto:angela.dymott@brighton-hove.gov.uk">angela.dymott@brighton-hove.gov.uk</a> <a href="mailto:emma.mcdermott@brighton-hove.gov.uk">emma.mcdermott@brighton-hove.gov.uk</a>	
<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE**

**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The report seeks Neighbourhoods, Inclusion, Communities & Equalities Committee endorsement of the adoption of a Community Asset Transfer (CAT) Policy prior to the arrangements being presented to Policy, Resources & Growth Committee for approval.
- 1.2 The CAT Policy formalises the current ad hoc arrangements for considering applications for the transfer of council assets to the management of third sector organisations to unlock community benefits and social value.
- 1.3 The Corporate Property Strategy & Asset Management Plan (AMP) sets out the management strategy for the council's property & land portfolios which aims to maximise the value received from them, both in terms of financial return as well as increased social value and community benefits for the city. The CAT Policy fully aligns with these objectives and will sit under the AMP as a key part of our strategic property management framework.
- 1.4 The CAT Policy sets out a consistent and formal process for both the receipt of applications and the evaluation of proposals. The policy will be made available on the council's website to inform third sector organisations who wish to explore this option.

**2. RECOMMENDATIONS:**

*That Neighbourhoods, Inclusion, Communities & Equalities Committee:*

- 2.1 Recommends adoption of the Community Asset Transfer (CAT) Policy as set out in Appendix 1 to this report to the Policy, Resources & Growth Committee on 25<sup>th</sup> January 2018.

That Policy, Resources & Growth Committee:

- 2.2 Approves adoption of the Community Asset Transfer (CAT) Policy as set out in Appendix 1 to this report.
- 2.3 That the Member-led Asset Management Board receives updates annually on Community Asset Transfers undertaken by the council and that this update is published on the council's website.

**3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 Community Asset Transfer is defined as the transfer of stewardship (through a leasehold agreement) or, in exceptional circumstances, the transfer of ownership (through a freehold sale) of a community asset from the council to a third sector organisation at less than best consideration in order to achieve a public benefit and unlock social value.
- 3.2 The CAT Policy is entirely separate to and does not cover the 'Community Right to Bid' scheme which was introduced in the Localism Act 2011. The Community Right to Bid scheme applies to all property in the city (not just council owned), has its own legal process and is administered by the council's planning team.
- 3.3 The council recognises that the transfer of an asset to a third sector organisation can unlock additional social value, support community enterprise and demonstrate commitment to our communities and residents. This in turn can attract additional investment to create a thriving community hub for the benefit of the local neighbourhood and the whole city.
- 3.4 The council has had some notable successes in the past in the transfer of assets to the third sector such as the Open Market CIC and the Bristol Estate Artist Studios. However, such arrangements have tended to be ad hoc and reactive rather than strategic. The purpose of the CAT Policy is to provide a clear, consistent and fair framework for the assessment of future requests for community asset transfers including how the council evaluates the risks and benefits associated with each application as part of its overall asset management processes.
- 3.5 The CAT Policy aligns with the strategic approach to asset management and policy framework set out in our Corporate Property Strategy & Asset Management Plan (AMP). The AMP aims to encourage community asset transfer where appropriate and to maximise the value received from our property assets including community benefits and social value.
- 3.6 Development and publication of a formal CAT Policy was a key recommendation of the Fairness Commission.
- 3.7 The CAT Policy together with a list of council owned buildings designated as 'Community Assets' will be made available on the council's website and reviewed and updated at least annually. Third Sector Organisations are defined in the policy as including not for profit organisations or groups with a local connection.

### 3.8 The CAT Policy sets out:

- Who is eligible to apply,
- Eligible community assets and standard transfer terms,
- Information required from the applicant group,
- Application evaluation criteria,
- Target timescales for a decision on applications and
- Sources of further information for third sector organisations from both the council and externally.

Appendices to the CAT Policy include a standard application form and an example risk log to guide third sector organisations through the process.

### 3.9 Certain key principles will apply to the CAT Policy to protect both the council and the third sector organisation applicant. These are set out in the policy document and include:

- Proposed transfers must promote social, economic or environmental well-being within the community and support the priorities & objectives of the council.
- The council will consider transfers proposed at less than Best Consideration only if the applicant is able to demonstrate the additional social value offered within a detailed business case. Achievement of such added value will be monitored and reported regularly to the council to ensure that it is delivered.
- A presumption for leasehold transfers. Freehold transfers will only be considered if a strong case can be made for either additional development opportunities or where freehold ownership is a pre-requisite for funding.
- The council will expect the applicant to take on the running costs of the transferred asset and their ability to do this will be assessed through the business case.

### 3.10 Once adopted, the CAT Policy will be published on the council's website alongside our asset list and interactive map and the Communities & Equalities team will advertise this to third sector organisations.

## **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

4.1 Option 1 Do Nothing – Without an agreed policy in place, third sector organisations are more likely to be treated in an ad hoc and inconsistent way resulting in potentially wasted effort on both sides.

4.2 The CAT Policy aligns with the property objectives set out in the Corporate Property Strategy & Asset Management Plan (AMP) for the council to take a strategic approach to the management of our assets rather than a reactive ad hoc response to future asset transfer requests from third sector organisations.

## **5. COMMUNITY ENGAGEMENT & CONSULTATION**

5.1 The CAT Policy has been produced by the council's Property & Design, Communities, Equalities & Third Sector, Housing Strategy & Sustainability teams with input from:

- Community Works representatives
- Community Buildings Network

## 6. CONCLUSION

- 6.1 The recommendation is for the Neighbourhoods, Inclusion, Communities & Equalities Committee to endorse adoption of the new Community Asset Transfer Policy set out in Appendix 1 and that it is subsequently approved by the Policy, Resources & Growth Committee. It is best practice for councils to have a policy in place to clearly set out which assets are eligible for transfer, who can apply, information that the council needs to determine an application and a consistent and transparent method that the council will use to evaluate applications.
- 6.2 The CAT Policy aligns with the objectives of our Corporate Property Strategy & Asset Management Plan (AMP) which requires best use of our assets and to unlock additional social value wherever possible.

## 7. FINANCIAL & OTHER IMPLICATIONS:

### Financial Implications:

- 7.1 The council is legally obliged to ensure that any transfer of asset receives Best Consideration. The Community Asset Transfer Policy continues to ensure that best consideration is received and in the event that less than best consideration is received then the applicant must be able to demonstrate added social and economic value within a detailed business case.
- 7.2 All applications proceeding to the Full Transfer Application stage will be required to submit a detailed business case including risk register. The business case will need to demonstrate that sufficient funding is in place or being secured. Applicants will need to demonstrate that there will be long term financial sustainability for the length of the lease period or a minimum of five years whichever is the lesser. Applicants will be responsible for all building running costs including utilities, repairs, rates, insurance and statutory repairs. There will be a requirement for any building to be handed back at the end of the lease period in no worse condition than was originally transferred.
- 7.3 Applicants will need to be able to demonstrate that they have sufficient financial backing and experience or has support in place to assist in directly managing the asset to be transferred.
- 7.4 The transfer of an asset may take the form of a Licence to Occupy, a short lease (7 years and under), a long lease (7 years or over) or a freehold disposal. The preferred method would be in the form of a lease but in exceptional circumstance a freehold disposal may be considered. The council may receive a capital receipt for either a lease or freehold transfer or a rental income depending on the terms of each individual application. Any revenue income will support the council's annual revenue budget and any capital receipt will support the Medium term Financial Strategy.

*Finance Officer Consulted: Rob Allen*

*Date: 19/09/17*

Legal Implications:

- 7.5 The council cannot dispose of land for less than the best consideration that can reasonably be obtained, except with the consent of the Secretary of State (S123 of the Local Government Act 1972). Specific consent is not required for the disposal of any interest in land for an undervalue of up to £2 million provided that the authority considers it will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area.
- 7.6 Each transfer will require an analysis of the activities of the organisation receiving the assistance to ensure that the disposal does not amount to unlawful state aid.
- 7.7 The legal implications of each transfer will be considered on a case by case basis.

*Lawyer Consulted:*

*Alice Rowland*

*Date: 29/08/17*

Equalities Implications:

- 7.8 An Equalities Impact Assessment has not been carried out.

Sustainability Implications:

- 7.9 The Sustainability team has been consulted whilst producing the policy and a sustainability checklist has been included as an appendix.

Any Other Significant Implications:

- 7.10 None.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. Community Asset Transfer Policy document

**Documents in Members' Rooms**

None

**Background Documents**

None

