

<b>DECISION-MAKER:</b>	<b>CABINET</b>		
<b>SUBJECT:</b>	<b>COMMUNITY ASSET TRANSFER STRATEGY: PROGRESS AND REVIEW</b>		
<b>DATE OF DECISION:</b>	<b>21 APRIL 2015</b>		
<b>REPORT OF:</b>	<b>CABINET MEMBER FOR COMMUNITIES</b>		
<b><u>CONTACT DETAILS</u></b>			
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<b>STATEMENT OF CONFIDENTIALITY</b>			
<b>None</b>			
<b>BRIEF SUMMARY</b>			
This report recommends approval for revisions to the Council's Community Asset Transfer Strategy, application process and approval for delegated authority to transfer four buildings at less than Best Consideration. It also provides an update on progress of transferring community centres and community buildings.			
<b>RECOMMENDATIONS:</b>			
	(i)	To approve the recommended changes to the Community Asset Transfer Strategy, attached at Appendix 1, to: <ul style="list-style-type: none"> <li>• Streamline the application process</li> <li>• Give existing tenants first refusal.</li> </ul>	
	(ii)	To delegate authority to the Assistant Chief Executive to make any minor or consequential amendments and/or refinements to the process as may arise from time to time.	
	(iii)	To delegate authority to the Assistant Chief Executive, following consultation with the Cabinet Members for Communities and Resources and the Head of Property to transfer properties that have reached Stage 2 of the current process, namely: <ul style="list-style-type: none"> <li>- Harefield Community Centre</li> <li>- Northam Community Centre</li> <li>- St. Albans Resource Centre</li> <li>- Townhill Park Community Centre</li> </ul> at less than Best Consideration (where appropriate) to either the current or any new applicants following the new application process and to subsequently agree detailed disposal terms and negotiate and carry out all ancillary matters to enable disposal of the sites.	
	(iv)	To delegate authority to the Head of Property to approve the disposals on a leasehold or freehold basis at less than Best Consideration:	

	(v)	To delegate authority to the Assistant Chief Executive, following consultation with the Cabinet Members for Communities and Resources and Head of Property to do anything necessary to give effect to the recommendations contained in this report:
	(vi)	To note progress on transferring community centres and buildings.
<b>REASONS FOR REPORT RECOMMENDATIONS</b>		
1.		Cabinet approval is required to approve disposal of land at less than Best Consideration and to amend the Council's Community Asset Transfer Strategy.
<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>		
2.		Do nothing and continue with the Council's Community Asset Transfer Strategy and associated application process. This option was rejected as feedback from community, voluntary and faith organisations supported reviewing a number of aspects to make the process more streamlined and to shorten timescales.
<b>DETAIL (Including consultation carried out)</b>		
3.		In June 2013, Cabinet approved the Community Asset Transfer (CAT) Strategy. It was introduced to meet the twin objectives of bringing benefits and added value to communities and contributing to the Council's aims and priorities. The strategic drivers continue to be the Localism Act 2011, the Council's financial position, commitment to support local communities, speculative interest from organisations and maximising opportunities to use and deliver services from local bases, with partners. The transfer may be on a freehold or long leasehold basis (25 – 99 years).
4.		The CAT Strategy provides a framework for the Council to consider transferring Council assets (buildings and/or land), sometimes at less than market value to community, voluntary or faith organisations. The process currently has the following stages: <ul style="list-style-type: none"> <li>• Speculative enquiry</li> <li>• Stage 1 - Expression of Interest + Action Plan (3 months deadline)</li> <li>• Stage 2 – Detailed application and full business plan (4-8 months).</li> </ul>
		<b>Consultation</b>
5.		The Council provided an opportunity (from 20 <sup>th</sup> February – 20 <sup>th</sup> March 2015) for organisations and individuals to provide feedback on the current Community Asset Transfer (CAT) Strategy and process. Feedback was sought from: <ul style="list-style-type: none"> <li>• Community Centres and community buildings in scope for the CAT pilot phase – a total of 18 assets.</li> <li>• Organisations who had first-hand experience of the process</li> <li>• Organisations and individuals who took part in the original CAT Strategy and process consultation in 2013.</li> <li>• Recipients of the Council's weekly Community News and Events e-bulletin (4 x editions) received by 6,000 organisations and individuals across the City.</li> </ul>

6. Key points highlighted in the feedback include the need to revise the Community Asset Transfer Strategy to give existing tenants first refusal, to recognise pressures on community, voluntary and faith organisations and to shorten the application process. The revised Community Asset Transfer Strategy is attached at Appendix 1 and a summary of feedback received at Appendix 2. The Strategy has been amended to give existing tenants first refusal and details of the current application process have been removed.

**Progress**

7. To date of the 18 community assets, nearly 40% have reached the stage at which we can recommend disposal. Of these 3 will be successfully disposed (Bitterne Manor, which is currently negotiating lease terms, Lordshill which has been disposed as part of the Oaklands Pool redevelopment and will open in April 2015 and Regents Park where the new facility is planned to be open in September 2015). Five others (Coxford, Northam, Harefield, Moorlands and Sholing) were to be part of a multiple asset transfer to Just Centres. However, at the time of drafting this report, Just Centres have informed the Council that they are unable to progress this transfer due to a recent funding decision by external funders. Each centre's progress in the community asset transfer process is detailed in the tabled below.

8.			
	<b>Status</b>	<b>Centres</b>	<b>Progress</b>
	<b>Progressing to disposal</b>	Townhill Park Community Centre, Meggeson Ave	City Life Church is working with Townhill Park Community Association – completed Stage 2. This report seeks delegated authority for disposal.
	<b>Invited to Stage 2</b>	St Albans Resource Centre, Northumberland Road	The Black Heritage Association and the Kutchi Cultural Association have both been invited to stage 2 of the process. This report seeks delegated authority for disposal.
	<b>Organisations preparing for community asset transfer</b>	Lordswood Community Centre, Sandpiper Road	Lordswood Community Association, Merryoak Community Association and Swaythling Neighbourhood Association are reviewing their policies and practise in readiness for applying.
		Merryoak Community Centre, Acacia Road	
Swaythling Neighbourhood Centre, Off Broadlands Road			
<b>Disposals linked to new developments</b>	Lordshill Community Centre, Andromeda Road	Refurbished building on Oaklands Pool site. Opening April 2015. Full repairs, maintenance and insuring responsibilities transfer to tenant, Lordshill Community Association.	
	Regents Park Community Centre, Elmes Drive	New purpose built community centre planned on school site. Opening Sept 2015 (estimated).	

	Status	Centres	Progress
	<b>Negotiating lease terms</b>	Bitterne Manor Community Centre, Vespasian Road	Bitterne Manor Community Association are currently negotiating 99 year lease with full repairs, maintenance and insuring responsibilities.
		Clovelly Centre, Clovelly Road	Discussions have started, linked to new lease.
	<b>Assets linked to para. 9 of report (re Just Centre)</b>	Coxford Community Centre, Olive Road	These assets are linked to the update within para.9 of this report as they had progressed to Stage 2 and were part of a multiple transfer to Just Centres which has recently fallen through. This report seeks delegated authority for disposal of Harefield and Northam Community Centres.
		Harefield Community Centre, Yeovil Chase	
		Moorlands Community Centre, Townhill Park Way	
		Northam Community Centre, Kent Street	
		Sholing Community Centre, Butts Road	
	<b>Early discussion progressing</b>	Freemantle Community Centre, Randolph Street	Following decisions linked to the Council's Day Services provider review, potential new long-term hirers are being identified.
		St Denys Community Centre, Priory Road	
		Kingsland Community Centre, Winton Street	There has been extensive water damage in this centre recently. Now the centre has been repaired, further conversations with the committee about CAT will take place.
		Woolston Community Centre, Church road	Woolston Community Association already has a long lease in place.
9.	Northam Community Association had entered into a partnership with Just Centres, a new local social enterprise and had progressed to Stage 2 of the application process. Unfortunately, in March 2015, Just Centres informed the Council that they have been forced to withdraw from the community asset transfer process as a result of a recent funding a decision by external funders.		
10.	There have been enquiries from a number of local and regional organisations, outside the scope of the pilot programme, which indicates there is appetite for community asset transfer. These organisations have either expressed interest in taking forward a community asset transfer for the premises they currently occupy or are seeking new premises.		
<b>RESOURCE IMPLICATIONS</b>			
<b><u>Capital/Revenue</u></b>			
11.	It is proposed that a lease of Townhill Park Community Centre is granted at an annual rent in the region of £1,350 for a term of 25 years. This would give the property a value of £14,500. Whilst the property is relatively new its repair and maintenance costs are high, and these will shortly be un-funded by the Council The liabilities for these costs in the future will pass to City Life		

	Church so represent a saving to the Council and the removal of an ongoing liability for repairs etc. The current budget for supporting Community Centres is already the subject of a budget saving (COMM2) approved by Council on 12 <sup>th</sup> February 2014. This budget will be removed in full from 2016/17 and the full achievement of the saving is therefore dependent on the progress against CAT.
12.	One off expenditure linked to transferring assets in the pilot programme will be met through the Transformation Fund on a case by case basis, to be agreed by the Council's Transformation and Improvement Board; costs to date total approx. £11,500. Additional costs incurred beyond the pilot phase of the programme will be borne by the relevant Portfolio. A one year post will be funded through the Transformation Programme to support the delivery of this programme over the next financial year. This will have a maximum cost of £48,900.
13.	Cabinet agreed on 18 <sup>th</sup> June 2013 that the need for capital investment to facilitate a community asset transfer will be considered on a case by case basis. Such consideration will be subject to the availability of financial resources and subject to Cabinet approval following appraisal of the detailed application. If there is a capital receipt from buildings on HRA land, the funds would need to be transferred to the HRA.
<b><u>Property/Other</u></b>	
14.	Townhill Park and Northam Community Centres have been improved following agreement to licence to Early Years Education and Childcare Services (EYEC) and Children's Centre services. Under the terms of grants from the Department for Education (DfE), the council must guarantee provision of EYEC for 25 years. If the interests of such early years and Children's Centre services are not protected, the Council would need to repay the capital to the funders. In such cases, an early analysis of the investment and potential repayment and the impact on the Council's statutory duties has to be made before any recommendations can be made to Members. Formal approval for the transfers of these properties will be need to be secured from the DfE as part of the disposal process.
15.	The disposal terms for Townhill Park and Northam Community Centre premises will therefore include provision to allow the council to nominate EYEC providers and Children's Centre services to occupy such premises under reasonable terms subject to the approval of each community, voluntary or faith organisation's governing body. If the EYEC providers and Children's Centre services materially breach the licence terms agreed, and as a consequence, the community, voluntary or faith organisation, acting reasonably, terminates the EYEC provider's licence, the Council will identify an alternative EYEC providers and Children's Centre services to meet the demand for early years' places.
16.	Disposals will be at less than best consideration where the disposal terms are less than at full open market value.
17.	To ensure that assets continue to be used for the purposes of benefiting local communities, an asset lock will be incorporated into legal agreements.
18.	Building Contract Services (BCS) provides a repairs and maintenance service to a number of Council-owned community centres and community buildings. Transferring the assets would mean the community, voluntary or faith

	<p>organisation would be able to choose whether to continue to purchase services from BCS or enter into agreements with other contractors. Depending on the number of transfers that are achieved, there may be a negative impact on BCS income.</p>
19.	<p>Under the terms of leases and statute, tenants will have full health and safety and compliance duties.</p>
<p><b>LEGAL IMPLICATIONS</b></p>	
<p><b><u>Statutory power to undertake proposals in the report:</u></b></p>	
20.	<p>Under Section 1 of the Localism Act 2011, the Council has a general power of competence to do anything that individuals generally may do; however that general power is subject to other statutory limitations. Section 123 of the Local Government Act 1972 provides that the Council must dispose of land for best consideration, save for cases where the consent of the Secretary of State has been obtained for any disposal at less than best consideration. Under the General Disposal Consent (England) 2003, such specific consent is not required for any disposal where the difference between the unrestricted value of the interest and the consideration accepted, is £2M or less, provided that:</p> <ul style="list-style-type: none"> <li>• the purpose for which the land is to be transferred is likely to contribute to the “promotion or improvement” of the economic, social or environmental well-being of the area.</li> </ul> <p>In order to use the General Disposal Consent (England) 2003, the properties must be held under the Local Government Acts. There are a number of these in the HRA which means they will need appropriation from Housing Acts to Local Government Acts prior to disposal. This is an internal administrative process.</p>
21.	<p>In determining whether or not to dispose of land for less than best consideration the Council should have regard to a number of factors including its accountability and fiduciary duty to local people, future potential liabilities, its community strategy, all normal and prudent commercial practices, clear and realistic valuation advice on the asset in question and EU State Aid rules.</p>
<p><b><u>Other Legal Implications:</u></b></p>	
22.	<p>State Aid rules are designed to ensure that the single market is not subject to national distortion through State support to particular companies or sectors. Since the tests for State Aid relate to an organisation’s activities (and whether or not they are the subject of trade between Member States), it cannot categorically be stated that State Aid does not apply to all Community Asset Transfers. However, where an organisation can show that it is carrying out purely local activities, on a ‘not for profit’ basis, then this should be a good basis for showing there is no State Aid. Where the recipient of a Community Asset Transfer is engaged in carrying out ‘not for profit’ activities to meet local community need (i.e. with no cross-border trade), then the transfer is unlikely to count as State Aid in itself. However, what also needs to be considered is the status of organisations that are tenants in the building. If their activities fall under the State Aid Rules it could lead to accidental ‘leakage’ of Aid which inadvertently leads to the other bodies gaining an unfair advantage over their competitors.</p>

23.	Any pre-emption, asset lock or buy back right would need to be protected by a restriction entered onto the title of the relevant asset.
24.	Assets transferred on a leasehold basis will be carried out on the basis that the entire responsibilities for managing and repairing the building, including all health and safety responsibilities, will be transferred from the council to the receiving organisation.

**POLICY FRAMEWORK IMPLICATIONS**

25.	Recommendations for community asset transfer relate to the relevant Policy Framework plans. The services provided by the organisations to which a transfer is approved will assist the council in meeting the overall aims of its policy framework including the Southampton City Council Strategy 2014 - 17.
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<b>KEY DECISION?</b>	Yes
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<b>WARDS/COMMUNITIES AFFECTED:</b>	None (unless the community transfers have a specific impact on one or more communities or sections of a community)
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SUPPORTING DOCUMENTATION

**Appendices**

1.	CAT Strategy
2.	Consultation feedback
3.	ESIA

**Documents In Members' Rooms**

1.	None
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**Equality Impact Assessment**

<b>Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out?</b>	Yes
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**Other Background Documents**

**Equality Impact Assessment and Other Background documents available for inspection at:**

<b>Title of Background Paper(s)</b>	<b>Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)</b>
None	