

# Cabinet

## AMENDED REPORT

Tuesday, 15th March, 2016  
at 4.30 pm

### Contacts

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# MEMBERS ROOM DOCUMENTS

11 **COMMUNITY ASSET TRANSFER STRATEGY: PROGRESS AND REVIEW** □  
(Pages 1 - 12)

Amended report tabled at Cabinet.

Monday, 7 March 2016

SERVICE DIRECTOR, LEGAL AND GOVERNANCE

<b>DECISION-MAKER:</b>	CABINET		
<b>SUBJECT:</b>	COMMUNITY ASSET TRANSFER STRATEGY : PROGRESS AND REVIEW		
<b>DATE OF DECISION:</b>	15 MARCH 2016		
<b>REPORT OF:</b>	CABINET MEMBER FOR COMMUNITIES, CULTURE AND LEISURE		
<b><u>CONTACT DETAILS</u></b>			
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<b>STATEMENT OF CONFIDENTIALITY</b>	
None	
<b>BRIEF SUMMARY</b>	
<p>This report recommends approval for:</p> <ul style="list-style-type: none"> <li>i) the disposal of Red Lodge Community Pool at Less than Best Consideration to Red Lodge Community Pool Limited</li> <li>ii) the disposal of Moorlands Community Centre at Less than Best Consideration to West Itchen Community Trust (WICT) working in partnership with Moorlands Community Association (MCA) and</li> <li>iii) seeks approval for delegated authority to transfer Freemantle, Merryoak, Sholing and St. Denys Community Centres at Less than Best Consideration.</li> </ul>	
<p>It also provides an update on progress of transferring community centres and community buildings following introduction of the new, streamlined process.</p>	
<b>RECOMMENDATIONS:</b>	
(i)	To approve the disposal of Red Lodge Community Swimming Pool to Red Lodge Community Pool Limited on a freehold basis at Less than Best Consideration for the sum of £1;
(ii)	To approve the disposal by way of a long lease (125 years) of Moorlands Community Centre to West Itchen Community Trust at Less than Best Consideration for a sum in the region of £1870.
(iii)	<p>To delegate authority to the Transformation Implementation Director in consultation with the Cabinet Member for Communities, Culture and Leisure, the Cabinet Member for Finance and the Head of Capital Assets to transfer the following properties:</p> <ul style="list-style-type: none"> <li>• Freemantle Community Centre</li> <li>• Merryoak Community Centre</li> <li>• Sholing Community Centre</li> <li>• St. Denys Community Centre</li> </ul> <p>at Less than Best Consideration (where appropriate) to either the</p>

		current or any new applicants 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 Capital Assets to approve the disposals on a leasehold or freehold basis at Less than Best Consideration;
	(v)	To delegate authority to the Transformation Implementation Director, following consultation with the Cabinet Member for Communities, Culture and Leisure, the Cabinet Member for Finance and the Head of Capital Assets to do anything necessary to give effect to the recommendations contained in this report; and
	(vi)	To note progress on transferring community centres and buildings following implementation of the new process.

### **REASONS FOR REPORT RECOMMENDATIONS**

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| 1. | Cabinet approval is required to approve disposal of land at Less than Best Consideration. |
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### **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

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| 2. | The option of doing nothing was considered and rejected because this would hamper the momentum of the first phase of the Community Asset Transfer Programme. |
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### **DETAIL (Including consultation carried out)**

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| 3. | On 21 April 2015, Cabinet approved revisions to the Community Asset Transfer Strategy and process, allowing existing tenants' first refusal to submit an application (either on their own or in partnership with another organisation) and streamlining the process. The revised process (Appendix 1) 'went live' in July 2015 and includes a 'fast track' route for existing tenants. Where a partnership bid is submitted, the partners are chosen by the existing tenants and subject to the same appraisal process. |
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### **RED LODGE COMMUNITY POOL**

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| 4. | The community asset transfer process allows for organisations outside the pilot scope to submit a 'speculative enquiry' for assets to be considered as part of the community asset transfer process. Such enquiries need to meet the requirements of the Strategy. A speculative enquiry was received from the trustees of Red Lodge Community Pool Limited (RLCPL). This building was approved as suitable for community asset transfer and the trustees submitted an application.   |
| 5. | RLCPL is currently occupying the pool under a 20 year lease which runs to 12 December 2020. The Pool is a single storey brick building constructed in the late 1970's. The pool is 20 x 8 meters with changing facilities, a viewing room, office and a staff room. There is also an external plant room which is used as a chemical store. (See Appendix 2 for site plan). The pool caters largely for people with specific needs (for example swimmers with disabilities) whose requirements cannot be met easily by most other swimming pools. |
| 6. | Since taking on the lease in December 2000 RLCPL has completed a number of improvements to the pool including:-   |

	<ul style="list-style-type: none"> <li>• Tarmacked parking facilities;</li> <li>• Addition of cycle racks;</li> <li>• New roof/guttering;</li> <li>• Installation of security lighting/emergency lighting;</li> <li>• Upgrade of fire alarm;</li> <li>• Installation of viewing room with privacy screening;</li> <li>• Internal and external redecoration;</li> <li>• New pool liner;</li> <li>• New pool cover;</li> <li>• Updating of changing facilities with addition of disabled changing cubicle, new showers and Eco taps;</li> <li>• Installation of disabled hoist to allow access to pool;</li> <li>• Defibrillator; and</li> <li>• Upgrade of plant room, including new boiler and chemical system.</li> </ul>
7.	<p>The market value of the property is £25,000 and the value for CAT purposes, at Less than Best Consideration is £1 for the freehold. The market valuation reflects that there is likely to be an alternative use for this site. Whilst this will generate a development value there will be significant costs in the removal of the existing buildings to facilitate development.</p>
8.	<p>In assessing their application, the Appraisal Panel felt that RLCPL met all requirements for transfer of the swimming pool for the following reasons:</p> <ul style="list-style-type: none"> <li>• Track record in managing the pool. RLCPL has been successfully running the pool for 15 years;</li> <li>• Investment in the property. Over the past 3 years RLCP has invested over £80,000 to upgrade and maintain the pool. They have a track record of raising funds to meet significant repairs, for example to the roof;</li> <li>• Professional expertise in pool management and running activities (for example employment of 2 full time staff, professional swim teachers and lifeguards); plus the pool is an approved National Lifeguard Qualification training centre;</li> <li>• Viable business plan;</li> <li>• Sound governance arrangements;</li> <li>• Understanding of local community needs with commitment to carry out further research; and</li> <li>• Evidence of meeting specific needs of pool users, for example ensuring that female lifeguards are on duty for the Asian Women's swimming group.</li> </ul>
9.	<p>The economic, social and community benefits RLCPL would deliver to the Council are:</p> <ul style="list-style-type: none"> <li>• Continued provision of a swimming pool for use by groups with specific needs and by the local community;</li> <li>• Value for money as major central administration costs are not incorporated into their pricing cost base;</li> <li>• Support in kind through existing staff and their 3 volunteer</li> </ul>

	<p>Directors with plans to increase the volunteers on their management committee;</p> <ul style="list-style-type: none"> <li>• The potential to lever in other sources of funding not available to the Council;</li> <li>• Proven track record in fundraising which will enable them to continue to meet responsibilities for all repairs, maintenance and insurance liabilities. During the last 15 years they have secured grant funding from Southampton City Council, Sport England and Awards for All;</li> <li>• Additional refurbishments including new pool liner, new heat retaining pool cover and renovation of toilets. In addition the Directors are considering the possibility of installing solar panels and closing in the entranceway;</li> <li>• Opportunities for local people (including students) to obtain a National Lifeguard qualification;</li> <li>• Employment for 2 full time staff and a number of part time/sessional staff; and</li> <li>• Development of their existing programme to meet community needs.</li> </ul> <p>(See Appendix 3 for Equality and Safety Impact Assessment)</p>
<b>MOORLANDS COMMUNITY CENTRE</b>	
10.	<p>Moorlands Community Centre is a single storey detached chalet style building occupying a plot of land on the eastern side of Townhill Way (see Appendix 4 for site plan). The building is of steel framed/block construction with painted timber clad elevations and tile covered pitched roof. The plot is regular in shape with a large car park and bordered by a playing field and an area of open space on two sides.</p>
11.	<p>The property was built in the early 1990s and has been subject to an element of refurbishment to meet Disability Discrimination Act (DDA) requirements circa 2002 and alteration work to improve storage facilities for the Early Years' service in March 2010.</p>
12.	<p>The Centre is used as a base for early years and the need to protect the ongoing Early Years provision has been considered as part of the transfer process.</p>
13.	<p>The CAT Appraisal Panel assessed the application against agreed criteria recognising that in transferring an asset at less than market value, the community and social benefits would need to compensate for the financial loss to the council. The Panel felt that the partnership between WICT and MCA met all the requirements for transfer for the following reasons:</p> <ul style="list-style-type: none"> <li>• Professional expertise and track record in property management, community development and securing external funding.</li> <li>• WICT currently manage a property portfolio valued in the region of £2.6M and manage community organisers. They have a track record of working with local people to identify local needs and develop local projects.</li> </ul>

	<ul style="list-style-type: none"> <li>• Viable business plan</li> <li>• Sound governance arrangements including Memorandum of Understanding underpinning partnership arrangement</li> <li>• Understanding of local community needs with commitment to develop programme of activities to meet those needs for example activities for parents with young children; older people and support and advice for unemployed people including access to debt advice</li> </ul>
14.	<p>The economic, social and community benefits WICT and MCA would deliver to the council are:</p> <ul style="list-style-type: none"> <li>- Continued provision of a local community centre</li> <li>- Value for money as through its contracts e.g. for utilities, WICT is able to deliver economies of scale across its property portfolio</li> <li>- The ability to absorb expenditure and occasional losses at the centre from WICT's commercial property portfolio</li> <li>- Responsibility for all repairs, maintenance and insurance liabilities including development of a "sinking fund" for ongoing investment in the building</li> <li>- The potential to lever in other sources of funding not available to the council, borne out by their track record. For example, in 2014 WICT raised over £85,000 of inward investment grants and have recently secured £350,000 over 3 years to be invested in the St.Mary's area of Southampton.</li> <li>- Strengthening the existing work of MCA by developing their activities to increase centre usage (linked to local needs) and therefore increase income. Examples of proposed activities include debt and budgeting support and advice, advice and support for unemployed people, activities for young children, teenagers and lone parents and advice on health and nutrition.</li> <li>- Refurbishment of the building and increased value to the community with an improved community facility</li> <li>- Support in kind through their existing staff – particularly the WICT Property Manager, Marketing and Administration Manager, 8 community organisers and 8 volunteers, 3 of which have qualified as Foundation Level 3 Community Organisers. They provide the approximate equivalent of 3 part-time Community Development Workers (approximately £46,000 per annum) and 5 part-time volunteers (approx. £600 per week worked).</li> <li>- Commitment to protect and support the development of existing early years' use</li> <li>- Training and development opportunities for local people including support for social enterprise/business start up</li> </ul>

	<ul style="list-style-type: none"> <li>- Capacity building and resource sharing for local groups</li> <li>- Long term community engagement and activism</li> </ul>
<b>PROGRESS ON OTHER TRANSFERS</b>	
15.	The 21 April 2015 Cabinet meeting also approved the transfer of Townhill Park Community Centre and approved delegated powers to progress transfers of St. Albans, Harefield and Northam Community Centres. Significant progress has been made since that meeting.
16.	Townhill Park Community Centre was approved for transfer to City Life Church working in partnership with Townhill Park Community Association. Detailed lease negotiations are well advanced.
17.	St. Albans Resource Centre has been approved for transfer to West Itchen Community Trust working in partnership with the Black Heritage Community Association. Negotiations about granting a long underlease are underway.
18.	Harefield Community Centre has been approved for transfer to West Itchen Community Trust. As this building is currently vacant, it was advertised. Three applications were received – from Harefield Primary School (as part of Hamwic Trust), Southampton Wood Recycling Project and West Itchen Community Trust. This was a two stage application process. The appraisal process resulted in Harefield Primary School and West Itchen Community Trust being invited to progress to Stage 2. Feedback was provided to Southampton Wood Recycling Project about their application and why they were not invited to progress. Harefield Primary School subsequently decided not to proceed with submitting a Stage 2 application due to the time and resources required to re-open Harefield Community Centre. West Itchen Community Trust successfully submitted a Stage 2 application. Negotiations are progressing in relation to a freehold transfer.
19.	The appraisal of the CAT application for Northam Community Centre is scheduled for 10 <sup>th</sup> March.
20.	Freemantle and Shirley, Merryoak, Sholing and St. Denys Community Associations are in the process of preparing their CAT submissions.
21.	Woolston Community Association entered into a 25 year, full repairing maintaining and insuring lease in March 2013, shortly before Cabinet approved the Community Asset Transfer Strategy in June of that year. As their lease (which entitles them to security of tenure) meets CAT requirements this centre has already effectively been transferred.
<b>MINOR AMENDMENTS TO STRATEGY</b>	
22.	In addition, delegated powers granted by Cabinet on 21 April 2015 have been used to extend the maximum lease term that can be offered from 99 to 125 years in line with current practice and to make a minor amendment to the Community Asset Transfer Strategy to make it clear that any transfer will take into account existing lease obligations (where appropriate). These changes were made following feedback from organisations involved in the process.
<b>RESOURCE IMPLICATIONS</b>	



<b><u>Capital/Revenue</u></b>	
23.	Transferring Red Lodge Community Pool to RLCPL would result in a nominal capital receipt of £1.
24.	The transfer of Moorlands Community Centre will generate a new annual rental income of £1,870 to the Communities, Culture and Leisure Portfolio. In addition there will be a £2,000 saving per annum to the Council on repairs and maintenance; this ongoing reduction in costs is already covered by a previously approved saving, as approved by Council on 12 <sup>th</sup> February 2014 (ref COMM2, reduce community centres budget).
25.	The costs associated with these disposals such as the internal Council and other professional costs will be met from existing budgets. Any additional costs incurred beyond the pilot phase of the programme will be borne by the relevant service area as set out in the 21 April 2015 report to Cabinet.
<b><u>Property/Other</u></b>	
26.	The disposal of Red Lodge Community Pool is at Less than Best Consideration. This is a disposal at less than best consideration as the disposal terms are less than at full open market value. As use will be restricted for community benefit the valuation has been adjusted accordingly. Therefore in accordance with the RICS document "Local Authority Asset Management Best Practice" it is advisable to state the best consideration that would otherwise be receivable. This is £25,000. The difference in values is £24,999 but it is the professional judgement of the CAT appraisal panel that the economic, social and community benefits (see paragraph 9) achieved by the transfer will generate at least this value in kind.
27.	The disposal of Moorlands Community Centre is at Less than Best Consideration. This is a disposal at Less than Best Consideration as the disposal terms are less than at full open market value. As use will be restricted for community benefit the valuation has been adjusted accordingly. Therefore in accordance with the RICS document "Local Authority Asset Management Best Practice" it is advisable to state the best consideration that would otherwise be achievable. This is £260,000 free hold. However, due to DfE funding, Moorlands Community Centre can only be transferred on a leasehold basis. The leasehold value under CAT is £1,870. The capitalised value of this leasehold amount is £40,000. The difference in values is therefore £220,000. It is the professional judgement of the CAT Appraisal Panel that the economic, social and community benefits (see paragraph 14) achieved by the transfer will generate at least this value in kind.
28.	Moorlands Community Centre has been improved following agreement to licence to Early Years Education and Childcare Services (EYEC). Under the terms of the grant from the Department for Education (DfE), the Council must guarantee provision of EYEC for 25 years. The grant of £11,642 was awarded in 2010, so the clawback period runs to 2035. If the interests of such early years' services are not protected, the Council would need to repay the capital. The clawback liability reduces year on year. The latest available calculation for this is the position at July 2015 when the clawback liability was £9,314.
29.	The disposal terms for Moorlands Community Centre will therefore include provision to allow the Council to nominate EYEC providers to occupy such premises under reasonable terms subject to the approval of the partnership

	between WICT and MCA. If the EYEC providers materially breach the licence terms agreed, and, as a consequence, the partnership between WICT and MCA, acting reasonably, terminates the EYEC provider's licence, the Council will identify an alternative EYEC provider to meet the demand for early years' services.
30.	Moorlands Community Association is currently occupying the building under a lease which expired in July 2013. However as the lease has Security of Tenure they are currently holding over under the same terms. This lease would need to be surrendered by MCA in parallel with any new lease being granted.
31.	Merryoak Community Centre has also been improved following agreement to licence to Early Years Education and Childcare Services (EYEC). 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' services are not protected, the Council would need to repay the capital to the funders.
32.	An initial view has already been obtained from the DfE in relation to Merryoak Community Centre and recognises the fact that most early years provision is currently being delivered from the nearby Festival Hall. Due to this, the DfE is content to defer (but not waiver) clawback for Merry Oak nursery as the funding for the asset will transfer to another asset of at least equal value and will continue to be used for purposes consistent with the grant. An initial view has also been obtained from the DfE in relation to Moorlands Community Centre. After a decision has been made about Community Asset Transfer in relation to Moorlands and Merryoak Community Centres formal approval for the transfers of these properties will need to be secured from the DfE.
33.	St. Denys Community Centre has been improved with capital funds from Sport England. The current grant aid agreement refers to transfers only being made at market value. Sport England has confirmed that they will waive the market value condition once they are satisfied that the transfer is taking place for the benefit of the community, and that the original sporting aims, objectives and provision would be sustained by the community organisation. The Council has provided initial information about the community asset transfer proposal to Sport England to confirm that this is the case. In order to progress the community asset transfer Sport England would carry out an eligibility and financial assessment of St. Denys Community Association and require details of their ongoing plans for community sport. It is a condition from Sport England that the asset transfer can only be completed alongside the formal novation of the existing grant award. As the Sport England and CAT requirements are similar, it is the intention to progress both in parallel.
34.	The Council can transfer its own property interests (either freehold or long leasehold) to a third party. This transfer to a third party could either be a freehold or a long leasehold.
35.	Disposal will be at less than best consideration where the disposal terms are less than at full open market value.
36.	To ensure that assets continue to be used for the purposes of benefiting local communities, an asset lock will be incorporated into legal agreements.

	For nominal value freehold sales, it will be necessary to reserve pre-emption or “buy back” rights whereby the Council will be entitled to buy back the sites for the same value that they were sold in the event that there is no longer a community use for the asset.
37.	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 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.

## **LEGAL IMPLICATIONS**

### **Statutory power to undertake proposals in the report:**

38.	<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 dispose of property at an under value, pursuant to the General Disposal Consent (England) 2003, the properties concerned must be held under the Local Government Acts. There are a number in the HRA which means they will need appropriation from Housing Acts to Local Government Acts. This is an internal administrative process.</p>
39.	<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:</p> <ol style="list-style-type: none"> <li>(a) the Council’s accountability and fiduciary duty to local people,</li> <li>(b) its community strategy,</li> <li>(c) Compliance with all normal and prudent commercial practices,</li> <li>(d) obtain clear and realistic valuation advice on the asset in question and the actual under-value involved,</li> <li>(e) Take into account &amp; comply with EU State Aid rules.</li> </ol>

### **Other Legal Implications:**

40.	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.
41.	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.

<b>POLICY FRAMEWORK IMPLICATIONS</b>	
42.	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.
<b>KEY DECISION?</b>	Yes
<b>WARDS/COMMUNITIES AFFECTED:</b>	Bassett, Bevois, Freemantle, Harefield, Millbrook, Portswood, Peartree, Shirley Sholing, Woolston

SUPPORTING DOCUMENTATION

**Appendices**

1.	Community Asset Transfer process
2.	Red Lodge Community Pool site plan
3.	Red Lodge Community Pool Equality and Safety Impact Assessment
4.	Moorlands Community Centre site plan
5.	Moorlands Community Centre Equality and Safety Impact Assessment

**Documents In Members' Rooms**

1.	None
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**Equality Impact Assessment**

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	Yes
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**Privacy Impact Assessment**

Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.	No
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**Other Background Documents**

**Other Background documents available for inspection at:**

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

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