

# Agenda



## Cabinet Member for Assets & Member Development

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Date: Friday, 25 August 2017

Time: Not Required

Venue: Not Required

To: Councillors M Whitcutt

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### Item

### Wards Affected

1 Policy for Community Asset Transfer (CAT) (Pages 3 - 14)

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# Report

## Cabinet Member for Assets and Member Development

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### Part 1

Date: 29 August 2017

**Subject** Policy for Community Asset Transfers (CAT)

**Purpose** To seek approval from the Cabinet Member for Assets and Member Development) for the Community Asset Transfer policy set out in the appendix to this report and to agree its immediate implementation.

**Author** Housing and Assets Manager

**Ward** General

**Summary** In the Corporate Property and Strategic Asset Management Plan 2013-2018, Newport CC adopted the principle of the Corporate Landlord in the management of its property assets. Under this over-arching strategy, officers of NCC and Norse have developed a policy for considering and managing requests to transfer Council owned property assets to Third Sector organisations. To ensure consistency of approach and clarity, this policy should be formally adopted and applied at all NCC premises.

**Proposal** The policy for Community Asset Transfers, set out as an appendix to this report, be adopted for all Newport City Council property assets.

**Action by** Head of Regeneration, Investment and Housing

**Timetable** Immediate

This report was prepared after consultation with:

- Estates Team Leader, Newport Norse
- Estates Portfolio Officer, Newport Norse
- Property Services Manager, Newport Norse
- Director, Place, Newport City Council
- Head of Regeneration, Investment and Housing, Newport City Council
- Head of Finance – Chief Finance Officer
- Head of Law and Regulations – Monitoring Officer
- Head of People and Business Change

**Signed**

## 1. Background

- 1.1 The Council owns a large and complex property portfolio. It has an asset value of over £620m and the cost of owning/managing this portfolio is the largest annual revenue cost to the Council, after staff costs.
- 1.2 Broadly, the Council holds premises for two strategic reasons. These are firstly to deliver operational services, either directly (eg schools, community centres etc) or indirectly (eg to support economic development or physical regeneration). Secondly, property assets may be utilised to support the Council's financial strategy by generating rental income or releasing capital for reinvestment in policy priorities. It should be noted that there is a general legal requirement to achieve best value in all property transactions involving Council owned assets.
- 1.3 Balancing alternative and sometimes competing opportunities for the use and deployment of property assets can become a complex process. In the Corporate Property Strategy and Strategic Asset Management Plan 2013-2018, adopted by the Council in 2013, it was decided to adopt a "Corporate Landlord" model. The essence of this position is that all decisions affecting Council assets should be considered from a Corporate perspective, rather than the specific viewpoint of any particular service or service group. It will also enable a consistent approach to the management of Council owned property assets and minimise risks inherent with the occupation and use of such assets.
- 1.4 Over recent years, there has been increasing emphasis on Public Sector organisations utilising alternative service delivery models, often working in partnership with Third Sector organisations. This is sometimes because of finance reducing or not being, alternatively where a third sector organisation can use public funding and secure additional grant funding thereby increasing the finance available to help the particular initiative, community or service provision. Almost always the organisation will require some form of accommodation, from office accommodation to accommodation large enough to deliver services from. There are a number of ways in which the Council can support such alternative arrangements, including the provision of property assets.
- 1.5 Because of the very nature of the community groups that are set up robustly enough to deliver services and help with community cohesion and benefits they effectively adopt the principles of sustainable development at their core and creating a policy to support this can also be seen as the Council adopting the principles of sustainability.
- 1.6 When considering requests to transfer property assets to Third Sector partners, there are a range of matters that will need to be considered. These include the nature of the service proposed, the capacity and experience of the partner organisations, any residual costs to the Council and the opportunity cost of transferring a premises. Any decision to transfer premises and the terms proposed therefore will require careful consideration of a range of complex and sometimes competing priorities. All such requests therefore must be considered from a Corporate perspective, rather than from the viewpoint of a single service.
- 1.7 To ensure a consistent and transparent approach, the Council's CSAMG has developed a policy strategy. This is set out as an appendix to this report.

## 2. Financial Summary

	Year 1 (Current) £	Year 2 £	Year 3 £	Ongoing £	Notes including budgets heads affected
Costs (Income)					The Council has a property portfolio with an asset value of over £620m. There are no general costs associated with this policy but the financial implications of each case will require specific consideration.
Net Costs (Savings)					
Net Impact on Budget					

## 3. Risks

3.1 There are no risks associated with this policy protocol

## 4. Links to Council Policies and Priorities

- Asset Management Plan
- Property Rationalisation programme

## 5. Options Available

5.1 Take no action.

5.2 The policy for Community Asset Transfers, set out as an appendix to this report, be adopted for all Newport City Council property assets.

## 6. Preferred Option and Why

6.1 The policy for Community Asset Transfers, set out as an appendix to this report, be adopted for all Newport City Council property assets. This will assist implementation of adopted policy on a consistent basis. It also will be of practical assistance to managers across the Council's services.

## 7. Comments of Chief Financial Officer

7.1 The adoption of an agreed policy will ensure that decisions are made on a consistent basis around an objective, known framework. This does not prioritise CAT over any other potential use for a property, as all individual proposals will continue to be assessed on a case by case basis. Key objectives of a proposal in terms of social and community wellbeing, for example, will need to be evaluated against the potential capital receipt foregone by not disposing of an asset on the open market.

## **8. Comments of Monitoring Officer**

- 8.1 The proposed Community Asset Transfer Policy sets out a transparent and consistent framework for the transfer of Council land and property to community groups, where there is a clear business case and identifiable public benefits. The transfer of Council assets to community groups is in accordance with the Council's general land disposal powers under section 123 of the Local Government Act 1972 and its general powers of "well-being" under section 2 of the Local Government Act 2000. There is no current statutory duty for local authorities in Wales to undertake community asset transfers, unlike in England where there are statutory rights under the Localism Act for community groups to bid for Council assets. However, there are proposals in the White Paper which would provide greater rights for community groups to initiate these transfers. Therefore, there are likely to be increasing demands for this type of asset transfer in the future, particularly in the light of the continuing austerity agenda and budget pressures, and the Council needs to have a strategic approach to determining how and when assets should be transferred. There is usually a statutory duty to ensure that property assets are disposed of at market value but the General Disposals Consent issued by Welsh Government does permit the sale or lease of land at less than market value where there are clear social, economic or environmental benefits. Therefore, the assessment process for any asset transfer will need to have regard to the overriding public benefit and whether the proposals for managing the asset will improve the well-being of the local communities in accordance with the principles and objectives of the Wellbeing of Future Generations (Wales) Act 2015.

## **9. Comments of Head of People and Business Change**

- 9.1 Community Asset Transfer is becoming increasingly relevant in sustaining services and local assets in the face of sustained reductions in public sector funding which has resulted in the need to rationalise property use and restructure services. This policy will provide a practical framework for considering and managing requests for transfer of assets. The policy requires that proposed asset transfers should meet community need and demand and should support the Council's aims and objectives. In practice I would expect this to consider their contribution in terms of the Council's wellbeing objectives, national wellbeing goals and the sustainable development principles under the Wellbeing of Future Generations Act 2015. The policy also explains that the expected social, economic and environmental benefits arising from the asset transfer will be a consideration in deciding the financial terms of the letting, which allows for flexibility in reflecting the non-monetary value to the community.

## **10. Comments of Cabinet Member**

- 10.1 Cabinet Member has approved the report.

### **Comments of Non-Executive Members**

Councillor Phil Hourahine

I support the principles of the report

## **11. Scrutiny Committees**

- 11.1 N/A

## **12. Equalities Impact Assessment**

- 12.1 N/A

### **13. Children and Families (Wales) Measure**

13.1 N/A

### **14. Wellbeing of Future Generations (Wales) Act 2015**

14.1 The five key headings listed under sustainable development, i.e. Long term, Prevention, Integration, Collaboration, Involvement are all key principles the third sector would also be following when supporting the Council to achieve it's wellbeing goals.

14.2 In creating a policy that sets the framework for how the Council might support these organisations in what often will be a key aspect to the secure delivery of the service, i.e. accommodation the Council is also following the sustainable development principles.

14.3 The same principles will again be applied when using the framework to determine each individual request as it arises.

### **15. Crime and Disorder Act 1998**

15.1 N/A

### **16. Consultation**

16.1 CSAMG

### **17. Background Papers**

17.1 CAT Policy attached as an appendix.



Newport Norse is a Joint Venture between Newport City Council, Norse Commercial Services and NPS Property Consultants

## Newport City Council

### Community Asset Transfer Policy

#### Purpose of the Policy

To set a transparent, positive and pro-active framework to enable, where appropriate, the transfer of assets from the Council to a third sector organisation (TSO).

The framework will support asset transfers that:

- Meet *community need and demand*
- Support the *Councils aims and objectives*
- Are evidenced by a *transparent business case* including financial implications to the authority.
- Are *sustainable* in the long term (particularly if long lease or freehold transfer).

This policy and framework aims to:

- Assist elected Members, Council Officers and community organisations in understanding what can be achieved by Community Asset Transfer.
- Set out a framework for assessing community asset transfer requests to ensure a consistent approach is adopted to achieve community, corporate and service aims.

#### Definition of Community Asset Transfer

The transfer of land or buildings from the Councils ownership into the stewardship and /or ownership of third sector (voluntary and community sector) organisations to include:

- Management agreement
- Licence to occupy
- Short lease (say 3 to 5 years)
- Long lease (up to 25 years)
- Freehold transfer (exceptional circumstances only)

Where practical, premises transferred under this process will be let on usual commercial terms. Depending on financial circumstances, Community Asset Transfers may involve a transfer at less than market value, either at a reduced cost, or for a nominal consideration. The social, economic or environmental benefits of the proposed transfer may be taken into account in determining the value. If the Council is minded to agree a letting at less than market value, this position will be subject to review at intervals during the term of the letting.



There will be a presumption that any lease will be on a full repairing and insuring basis and the third sector organisation will be responsible for all running costs of the asset.

### **National Policy Context**

The Local Government Act 2000 introduced the power for Local Authorities to undertake activities that promote economic, social and environmental well being of the area.

“Making Assets Work – the Quirk Review of community management and ownership of public assets (2007)” considered the role of public assets as an enabler of community empowerment. Local authorities have traditionally been risk averse in their consideration of asset transfer, but the Quirk review concluded that the benefits of community management and ownership of public assets could outweigh the risks and opportunity costs in appropriate circumstances.

The Welsh Governments “Social Enterprise Action Plan for Wales (2009)” highlights the Assembly’s commitment to community asset transfer. This is further demonstrated through the development of the Community Asset Transfer (CAT) programme and partnership with the Big Lottery Fund which developed a £13m community asset transfer programme in Wales.

### **Local Policy Context**

Any proposed CAT must focus on meeting the Councils objective of improving the lives of local people and making the City of Newport a better place to live, work and visit. The Council also recognises the importance of reflecting the aspirations of the community through its asset management policies.

### **Why is Newport Council committed to Community Asset Transfer?**

The Council is committed to using Community Asset Transfer (CAT) where appropriate, and recognises the benefits it can bring to our communities/;

- Economic development and social enterprise potentially leveraging in additional investment.
- Community empowerment
- Retain and/or enhance local services that may be lost due to budget restraints and service cuts.
- Building capacity and encouraging a more sustainable third sector
- Value for money
- Supporting delivery of the Councils corporate objectives including community led regeneration.

### **Our Commitment to Community Asset Transfer**

- Newport City Council will provide a transparent framework to support decision making and an agreed method of assessing all requests for transfer of Council assets.
- Newport City Council will pro-actively consider opportunities for CAT as part of our asset management planning process in accordance with our Disposals Policy.
- Newport City Council will support third sector organisations through the CAT process and provide any relevant information to assist their application e.g. building running costs.

### **Community Asset Transfer Criteria**

- Any proposed asset transfer must support the aims and priorities of Newport City Council and create wide public value
- Transfer of assets must retain or improve benefit to the community
- Assets can include both land and buildings
- Assets identified as having a significant capital receipt and planned for market disposal will not usually be considered for community transfer.
- Community groups must be incorporated, constituted for social benefit and if required by the Council, agree that the use of the transferred property as a community asset is retained.

- The type of transfer whether long term leasehold etc will be determined on a case by case basis. Only in exceptional circumstances will a lease of longer than 25 years duration be allowed.
- Community Groups must demonstrate community support, show long term sustainability and have a robust business plan in place to support the transfer.
- Discounts of market value will be considered on a case by case basis based on a number of factors, including compliance with legislation, type and value of the asset, the support of a “sponsoring service”, an assessment of a submitted business plan and the extent of community benefit derived. If an initial rent concession is agreed, this will be subject to review periodically, to ensure continuing rent support is required.
- If there are a number of groups wishing to take on an asset the Council will encourage collaborative working. If this is not achievable, the Council will consider each group individually.

### **Community Asset Transfer Process**

The process can be initiated in two ways:

1. By the Council identifying an asset as appropriate for transfer to sustain either a building or service delivery, or where a building is surplus to service requirements.
2. A request from a Voluntary / Community Organisation, either submitted directly or on their behalf by an Elected Member or local Community Council.

If the request comes through route 2 above, then an expression of interest needs to be submitted which should state:

- Name and address of Organisation
- Detail as to the nature / type of Organisation
- Structure and Purpose of the organisation
- Details of the asset (land and buildings) you are interested in.
- Why the asset is needed? Aims and objectives of the organisation and the project.
- What benefit will this bring to the organisation, the local Community and the Council?
- Does your group have any partners, collaborators and stakeholders?
- Finance – what funding do you have in place to support your application? How will the asset be managed and financed?

Once the initial expression of interest has been considered and supported in principle, a business plan may be requested depending on the scale of the transfer. Information required in a business case submission is detailed in Appendix 1.

Appendix 2 details the various stages of the Community Asset Transfer Process with Newport City Council.

## APPENDIX 1 – INFORMATION REQUIRED IN A BUSINESS CASE SUBMISSION

Business Plan Element	Detail
<b>Summary</b>	Who you are, what you want to do, how you intend to do it
<b>About your organisation</b>	Track record, current plans, partnerships and people, governance, legal structure
<b>Summary of the project</b>	<p>Project Objectives</p> <p>Proposed programme for delivery</p> <p>Proposed impact / benefits of the project</p> <p>Proposals for management and operation of the asset (staff, volunteers) and the capital construction phase when relevant.</p>
<b>Market</b>	<p>Need – what local needs will the project be responding to (who will be the beneficiaries)?</p> <p>How many will benefit within a year (e.g. community groups, local people)?</p> <p>Supply – who else is delivering similar activities in the same area? Is there potential for collaboration or completion and how will you respond to this?</p> <p>Demand – who will purchase the services / products that you provide?</p> <p>Pricing – what is the rationale for pricing (for services, renting space etc)?</p>
<b>Promotion</b>	What is your marketing strategy? (where appropriate) What methods will you choose (online, direct to customer etc) and who will you target? Who will do it (in house or external)?
<b>Resources</b>	<p>Financial projections</p> <p>Should include cash flow for first year</p> <p>Should include budget (3-5 years)</p> <p>Should include examination of profit and loss and capital expenditure (if capital is required to redevelop the building sources secured or identified should be stated)</p> <p>Explanatory notes – explaining rationale for projections and assumptions made. This should include assumptions about timings and level of commitment for both income and expenditure.</p>
<b>Risk assessment/ management / mitigation</b>	Identification of the different risks associated with the project 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.

## APPENDIX 2 – COMMUNITY ASSET TRANSFER PROCESS

APPLICATION STAGE	REQUIREMENTS	DECISION MAKER
<p><b>STAGE 0</b></p> <p>Informal pre-application discussion</p>	<p>Before submitting and application interested voluntary and community organisations are encouraged to discuss their options, their suitability and the scope of community asset transfer with Newport Norse (the Councils property advisors)</p>	
<p><b>STAGE 1</b></p> <p>Formal <b>Expression of Interest</b> is submitted to Newport Norse by the Third Sector Organisation (TSO) in response to:</p> <p>A) Request from TSO to take on a community asset.</p> <p>B) Invitation to express interest in surplus property through a “Window of Opportunity”</p>	<p>Outline business case</p> <ul style="list-style-type: none"> <li>• Details of the organisation</li> <li>• Governance arrangements</li> <li>• Proposed use of assets and benefits</li> <li>• Benefits to TSO, community and the Council</li> <li>• Support from Community and partners</li> </ul> <p>If the application is supported the TSO will be invited to proceed to Stage 2. If the application is not supported a full explanation will be provided.</p>	<p>Head of Regeneration, Investment and Housing, in consultation with:</p> <ul style="list-style-type: none"> <li>• Asset Management Group</li> <li>• Cabinet Member for People and Business Change</li> <li>• Relevant partners</li> </ul>
<p><b>STAGE 2</b></p> <p>Detailed <b>Business Plan</b> submitted</p> <p>The Council will support the development of the Business Plan including the provision of any relevant asset information available.</p> <p>We would strongly advise that the business plan is developed with support from a voluntary sector organisation such as Gwent Association of Volunteer Organisations</p>	<p>Detailed Business Plan – as per appendix 1 and including</p> <ul style="list-style-type: none"> <li>• Needs analysis and projected utilisation</li> <li>• Type of transfer sought and why</li> <li>• Planned outcomes and benefits and how they will be measured / monitored</li> <li>• Details of any proposed partnership / collaborative working</li> <li>• Any track record for delivering service /</li> </ul>	

(GAVO), Wales Co-operative Society or Communities First	managing property <ul style="list-style-type: none"> <li>• Capacity to manage the asset</li> <li>• 3 years plan for revenue and capital funding – projected income and expenditure including costs of managing and operating the asset</li> <li>• Financial sustainability and forward planning</li> </ul>	
<b>STAGE 3</b>  Full assessment of Business Plan	Report to the Asset Management Group with a detailed assessment of: <ul style="list-style-type: none"> <li>• Benefits for community, the TSO and how they relate to delivering Council priorities</li> <li>• Risks in relation to financial and organisational ability to manage the asset</li> <li>• Potential loss of capital receipt and existing income or other opportunity cost to the Council arising from the transfer</li> <li>• Establish level of discount (if applicable)</li> <li>• Terms of Transfer and any legal issues</li> <li>• Monitoring arrangement e.g. Service Level Agreement</li> </ul>	Asset Management Group make recommendation to the Cabinet Member for People and Business Change
<b>STAGE 4</b>  Recommendation and Decision	Report to Cabinet Member for People and Business Change	Cabinet Member for People and Business Change

Prepared by Newport Norse - February 2016

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