

13 July 2016		ITEM 15 (Decision 01104377)
Cabinet		
Community Asset Transfer Policy		
Wards and communities affected: All	Key Decision: Non-key	
Report of: Councillor Hague, Cabinet Member for Business		
Accountable Head of Service: Matthew Essex, Head of Regeneration and Assets		
Accountable Director: Steve Cox, Corporate Director of Place and Environment		
This report is Public		

Executive Summary

Thurrock Council is taking positive action to become an enabler of improved outcomes for communities rather than just a direct provider of services by working closely with the Voluntary, Community and Faith Sector (VCFS) as key partners in the delivery of services and links with local people.

The sustainability of the VCFS is essential to build pride, respect, cohesion and resilience in local communities. The Community Asset Transfer (CAT) Policy builds on earlier dialogue with the VCFS arising from budget saving options and the later Community Ownership and Management of Assets (COMA) programme in Thurrock which highlighted opportunities that may be suitable for transfer to the VCFS.

The CAT Policy sets out the Council's approach to support the VCFS to achieve sustainable community managed assets that meet local needs, maximise social value, support growth and resilience in the sector. Through its application, the policy seeks to deliver the most efficient use of publicly owned buildings and spaces in Thurrock, where they are deemed eligible for CAT, and the anticipated community benefit and financial viability outweigh the potential risks for all parties.

1. Recommendation(s)

That Cabinet:

- 1.1 Acknowledge the work of the Thurrock Community Assets and Management of Assets (COMA) Partnership supported by Locality.**
- 1.2 Approve the decision making process set out in the Community Asset Transfer Policy.**
- 1.3 Approve and adopt the Community Asset Transfer Policy.**

2. Introduction and Background

- 2.1 Community asset transfer (CAT) involves leasing or selling a property to a voluntary, community or faith sector (VCFS) organisation, sometimes on a subsidised basis, to enable local people to play a stronger role in meeting the needs of their communities. CAT is a relatively recent term for activity the Council has been undertaking for a long time.
- 2.2 In recent years, the Council has adopted several approaches to support the leasing, licensing and management of the buildings and other assets that it owns.
- 2.3 In December 2010 the Community Sport Facilities, Leases and Licences policy was approved by Cabinet establishing a process and criteria for organisations wishing to be a tenant of the Council. The Council's Asset Management Plan (herein AMP), was later approved by Cabinet in February 2011 establishing high level objectives for the future management of property, based on Government guidance, good practice, and the Council's operating environment.
- 2.4 The Asset Management Plan took into account the direction of travel established by the Localism Act of 2011 and its intention to shift power from government to individuals and communities, making it easier for them to get things done and achieve their ambitions for the place where they live. This shift in the ownership of land and buildings from public bodies to communities demonstrates localism in action.
- 2.5 A general consent for local authorities to dispose of property under community asset transfer rules was introduced by the Government in 2003. Local authorities are now empowered to transfer the ownership of land and buildings to communities for less than their market value through a process known as 'discounted asset transfer' or 'asset transfer'.
- 2.6 As part of the Localism Act, the Community Right to Bid has also been enacted giving power to communities to nominate land and buildings to be part of a register of 'assets of community value'. If such land or buildings are then offered for sale, eligible community organisations then have six weeks to indicate an 'intention to bid'.
- 2.7 The Council led a successful bid to Locality (a national network for community-led organisations) in May 2015 securing technical resources and grant funding from the national Community Ownership and Management of Assets (COMA) programme. The initial driver for the programme in Thurrock was to build on dialogue already taking place between the Council and VCFS particularly concerning the management of parks and open spaces. Additional priorities included the development of a formal CAT Policy. Further information was outlined in a report to Cabinet from the Portfolio Holder for Environment on 9th September 2015 ('Community Delivery of Environmental Services in Parks and Open Spaces').
- 2.8 A small Thurrock COMA partnership with the voluntary sector was formed in June 2015 with clear objectives for the duration of the programme (June 2015-March 2016) that included establishing the appetite for CAT in Thurrock through a series of

engagement events, building capacity within the VCFS and informing the emerging CAT Policy.

- 2.9 Recent feedback from Locality following the conclusion of the COMA programme acknowledged:
- the growing appetite for CAT within the VCFS (particularly relevant to members of the partnership itself that had actively developed CAT proposals);
 - the work of the Council to develop ad-hoc opportunities for CAT in recent years;
 - progress made by the Council and COMA partnership to produce a robust CAT Policy (now presented).
- 2.10 A copy of the final report prepared by Locality can be found at Appendix 1 to this report.

3. Issues, Options and Analysis of Options

- 3.1 Organisations within the voluntary, community and faith sector (VCFS) are often best placed to manage facilities, making extensive use of volunteers and their local knowledge and hands-on management of the asset. This often leads to lower overheads and better value for money as well as a more intensive use of the asset that helps to foster a sense of belonging in communities whilst bringing together people from different backgrounds.
- 3.2 The CAT policy set out in Appendix 2 to this report builds on feedback gathered during the COMA Programme and seeks to enable the VCFS to achieve successful, vibrant, inclusive and sustainable community managed assets that meet local needs, maximise social value, support growth and resilience and deliver the most efficient use of publicly owned buildings and spaces in Thurrock.
- 3.3 For the purpose of the policy, the Localism Act 2011 (Section 88 (1) and (2)) has been used to define an asset of community value in Thurrock as:
- A building or other land in the local authority's area (and in the case of the policy – owned by the Council) and that:
- (a) has an actual current use of the building or other land that is not an ancillary use, furthers the social wellbeing or social interests of the local community,
 - (b) it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community, and,
 - (c) has furthered the social wellbeing or social interests of the local community in the recent past, and which it is realistic to consider will do so again during the next five years.
- 3.4 The policy establishes a fair, consistent and transparent process for Council and community initiated CAT, the circumstances where it will be considered, as well as the means for eligible VCFS organisations to express an interest and apply for CAT, with accompanying indicative lease terms.
- 3.5 The policy sets out the Council's commitments to:

- Community Asset Transfer (CAT) where it will achieve benefits to local residents and contribute towards the Council's vision and objectives;
- acknowledging the social, economic and environmental value of CAT and the opportunities this may present to offset this value against economic rent;
- using Council assets to form long-term partnerships with the VCFS in order to create stronger, more cohesive and more sustainable communities;
- proactively investigating potential opportunities for CAT to local communities and social enterprises, and seeking to minimise processes associated with administering this policy, and,
- reviewing the application of the policy with the VCFS at regular intervals.

3.6 Feedback through the development of the policy recognised the importance of verifying that CAT is not an automatic right referred in the Localism Act 2011 but a central government policy directed at public bodies use of their assets. Not all assets are therefore expected to be available for CAT. In this regard, it was concluded that **the Council will neither invite nor accept expressions of interest for assets:**

- that are, or it is anticipated may be required in future, for the Council's operational purposes;
- where the Council considers that the property will achieve full market rent;
- where the Council has identified the property for disposal for a capital receipt (in this case VCFS organisations may still choose to submit a bid when the asset is marketed), and/or,
- where there are known or anticipated plans or strategies that may affect the potential for CAT.

Governance

- 3.7 A detailed governance framework has been designed to ensure the principles for the CAT policy are borne out through its implementation. This includes informing ward councillors, the Portfolio Holder for Business, Portfolio Holder for Performance and Communities, leaders of all parties and Directors Board once a council or community driven CAT opportunity has been identified. Further details on the involvement and key roles for all stakeholders can be found in Appendix 3 to this report.
- 3.8 In the first instance, all community-driven proposals will be considered for eligibility by the Chair of the Corporate Property Board in consultation with the Head of Assets and Regeneration. Council-driven proposals will be directed to the Corporate Property Board. A range of factors will be appraised at this early stage including ensuring that the asset is not in one of the excluded categories noted in section 3.6 of this report and determining circumstances that may require the involvement of other Council services (e.g. in the case of a proposed change of use for a building). If deemed eligible, the opportunity for CAT will be advertised on the council's website and via other local media for a period of 6 weeks during which additional expressions of interest will be invited from other eligible VCFS organisations.
- 3.9 A basic eligibility assessment will be completed for those expressions of interest received. This process will be led by the Corporate Property (CP) Team working with the Community Development and Equalities (CD&E) Team, and the relevant service area for the proposal e.g. in the case of parks or libraries. The group will prepare a recommendation to Corporate Property Board who will determine which organisations to invite to submit a full business case before appointing a CAT

Assessment Panel comprising council officers from relevant service areas with Ward Councillors and the Portfolio Holder for Business.

- 3.10 The CAT Assessment Panel will convene to appraise the full business case/s and prepare a recommendation on the proposals received. The recommendation will be reported to the Corporate Property Board who, in consultation with the Member Property Working Group, will reach a decision on whether to accept or reject the CAT proposal where they are eligible to do so and no additional consents are required or sensitivities have been highlighted earlier in the process.
- 3.11 In exceptional cases where a lease greater than 21 years is proposed, or in rare cases, the transfer of freehold, the decision making process will follow the relevant terms for the disposal of assets set out in the Council's Constitution. As such, decisions relating to the disposal by CAT of land or property valued below £500,000 will be delegated to the Leader and Cabinet Member for Finance and Education on advice from the Monitoring Officer and the S151 Officer (and Chair of the Corporate Property Board) in consultation with the Corporate Property Officer (and Corporate Director of Environment and Place) and Ward Councillors.
- 3.12 Any decision relating to the disposal by CAT of land or property valued above £500,000 will be taken by the Cabinet.
- 3.13 If other considerations or sensitivities are highlighted earlier in the CAT assessment process, an in-principle decision only may be granted by the parties referred in Sections 3.10-3.12 subject to approval (e.g. in the case of requiring planning consent) from other relevant member committees.

4. Reasons for Recommendation

- 4.1 The implementation of this policy will help the Council to support the sustainability and self-financing of the VCFS, build long term partnerships, harness skills and experience in the sector as well as local knowledge and resources to provide community benefit and social value. It will also help to provide access to external funding opportunities otherwise unavailable to the Council, achieve community empowerment, provide control to local organisations, encourage pride, and increase active citizenship (including volunteering) whilst developing organisational, financial, training and entrepreneurial skills within the VCFS.
- 4.2 It is important to note that, if the Council were to choose to forego the opportunity to review the possibility of allowing VCFS organisations to operate eligible assets, then it is likely that, as a result of financial pressures, some facilities will simply be closed or the quality of delivery will reduce even further.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 The CAT policy has been prepared by the Community Development and Equalities Team in consultation with the Corporate Assets Team and was presented to Corporate Overview and Scrutiny (O&S) Committee on 21 June 2016
- 5.2 Feedback from Corporate O&S highlighted the need to incorporate the terms for disposal of assets set out in the Council's Constitution and clarify and embed the role for elected members through the decision making process for CAT. The draft policy

now presented provides a much clearer role for elected members from the business case assessment stage to ensure these recommendations are incorporated.

5.3 Additional points raised included the need for an implementation plan for the policy that should include an early awareness raising session aimed at the VCFS, council officers and Elected Members. Other internal and external consultees involved with the development of the draft Community Asset Transfer Policy through a range of meetings, presentations and feedback sessions include:

- Directors Board
- Legal Services
- Regeneration and Assets Service
- Environment Service
- Strategy, Communications and Customer Service
- Housing Service
- Locality
- Thurrock CVS
- Thurrock Community Ownership and Management of Assets (COMA) Partnership

6. Impact on corporate policies, priorities, performance and community impact

6.1 There are many benefits for both the Council and VCFS on pursuing a CAT opportunity. Application of the policy will help to realise the community strategy vision and each of the strategic priorities to:

- **Create** a great place for learning and opportunity
- **Encourage** and promote job creation and economic prosperity
- **Build** pride, responsibility and respect
- **Improve** health and well-being
- **Promote and protect** our clean and green environment

6.2 All CAT nominations will be expected to demonstrate how they will directly benefit local residents and the wider communities of Thurrock and how their activities and expected outcomes will contribute to the delivery of the Community Strategy vision and strategic priorities. The assessment process will also enable due consideration of how proposals meet other relevant plans and strategies linked to the Community Strategy.

7. Implications

7.1 Financial

Implications verified by: **Mike Jones**
Management Accountant

The introduction of a CAT Policy will allow the Council to develop opportunities for the involvement of the VCFS through the ownership and management of buildings and land providing additional funding streams for community benefit that the Council cannot otherwise access. It may also help to ensure that some services continue to be provided with the Council acting as a facilitator rather than a direct provider.

Implementation of the CAT Policy provides the potential for savings and efficiencies relating to the management of the Council's property portfolio. Opportunities for savings will be considered on a case by case basis as part of the CAT assessment process.

7.2 Legal

Implications verified by: **Vivien Williams**
Planning and Regeneration Solicitor

Community asset transfer is a central government policy directed at local authorities' use of their redundant assets. It is entirely separate from the community right to bid, operating on a discretionary basis rather than forming a 'community right'. The powers under which it takes place predate the Localism Act 2011.

The Local Government Act 1972 section 123 (2) states:
Except with the consent of the Secretary of State, a Council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained.

A general consent for local authorities to dispose of land to community organisations at below market value was given under this section in 2003. The specified circumstances are:

- a) the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;
 - i) the promotion or improvement of economic well-being;
 - ii) the promotion or improvement of social well-being;
 - iii) the promotion or improvement of environmental well-being; and
- b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).

School disposals are covered by a legislative framework. Any disposal would first need approval under Section 77 of Schools Standards and Framework Act 1998. Therefore, school buildings and landholding will not be considered under this policy.

It is important to note that Community Asset Transfer is not an automatic right referred in the Localism Act 2011 but a central government policy directed at public bodies use of their assets.

7.3 Diversity and Equality

Implications verified by: **Natalie Warren**
Community Development and Equalities Manager

Equality of opportunity is a key principle for many voluntary, community and faith sector organisations that often pursue improved cohesion and diversity through their objectives and practice, involving communities in decisions and governance.

Recent government policy such as the Localism Act encourages the devolution of services to communities in recognition of the benefits that community involvement can bring to local areas.

The Community Asset Transfer Policy sets out clear expectations that align with the Equality Duty 2010 with supporting eligibility criteria to ensure that CAT enhances cohesion and inclusion and prevents the use of assets for services or activities that will isolate sections of our communities.

7.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

Not applicable at this stage

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Community Ownership and Management of Assets Programme: Final report and findings of Thurrock COMA Partnership, February 2016
- Agenda Item 16: Report to Cabinet on 9 September 2016 entitled 'Community Delivery of Environmental Services in Parks and Open Spaces'.
<https://thurrockintranet.moderngov.co.uk/ieListDocuments.aspx?CId=129&MId=2559&Ver=4>

9. Appendices to the report

- Appendix 1: Community Ownership and Management of Assets Programme: Final report and findings of Thurrock COMA Partnership, February 2016
- Appendix 2: Draft Community Asset Transfer Policy
- Appendix 3: Involvement and key roles of Voluntary, Community and Faith Sector, Council Officers and Elected Members through the Community Asset Transfer Process

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