

<b>DECISION-MAKER:</b>	CABINET		
<b>SUBJECT:</b>	COMMUNITY ASSET TRANSFER STRATEGY – PROGRESS AND REVIEW		
<b>DATE OF DECISION:</b>	17 APRIL 2018		
<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>
<b>None</b>

### **BRIEF SUMMARY**

This report recommends approval for a Community Asset Transfer Policy as a successor to the current Community Asset Transfer Strategy and revisions to the application process. It also provides an update on progress of transferring community centres and community buildings.

### **RECOMMENDATIONS:**

- (i) To note progress on transferring community centres and buildings since implementation of the Community Asset Transfer Strategy
- (ii) To delegate authority to the Service Director (Growth) following consultation with the Leader of the Council, the Cabinet Member for Communities, Culture and Leisure, the Cabinet Member for Finance, the Service Director, Legal and Governance and the Associate Director, Capital Assets to transfer Swaythling Neighbourhood Centre at Less than Best Consideration (where appropriate) to the current tenants 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 site.
- (iii) To approve the new Community Asset Transfer (CAT) Policy
- (iv) To approve changes to the CAT process attached at Appendix 1 to further streamline the process
- (v) To delegate authority to the Associate Director, Capital Assets following consultation with the Cabinet Member for Communities, Culture, and Leisure, the Service Director (Growth) and the Service Director, Legal & Governance to make any minor or consequential amendments and/or refinements to the CAT Policy or process as may arise from time to time
- (vi) To delegate authority to the Service Director (Growth) following consultation with the Cabinet Member for Communities, Culture and Leisure, the Cabinet Member for Finance, the Associate Director,

Capital Assets and the Service Director, Legal & Governance to do anything necessary to give effect to the recommendations contained in this report

## **REASONS FOR REPORT RECOMMENDATIONS**

1. To ensure that progress continues to be made with the Council's Community Asset Transfer programme and that to ensure that the council makes decisions in a consistent, transparent, fair and open way and that such decisions are made on the basis of sustainability and robust financial, property and needs assessments.

## **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

2. Do nothing and continue with the Council's Community Asset Transfer Strategy and associated application process. This option was rejected.
3. Southampton City Council's Community Asset Transfer Strategy was approved by Cabinet on 18<sup>th</sup> June 2013 to cover the period to 2017 during which a proactive programme of transfers would be progressed. The Community Asset Transfer (CAT) Strategy provided the framework to drive forward the first phase of the Community Asset Transfer Programme. A Strategy was required at this point because it was the first time that the council proactively considered transferring assets at less than best consideration to community, voluntary and faith organisations. The first phase is nearing its conclusion so the priorities and processes captured in the Strategy have become 'business as usual'. It is therefore more appropriate to develop a Community Asset Transfer policy that captures the aspirations of the Strategy while providing guidance to support officers to progress future community asset transfers.
4. The option of continuing with the current application process was also rejected as previous feedback from community, voluntary and faith organisations supported streamlining of the process. The process was reviewed and changes approved by Cabinet at its meeting on 21 April 2015. This report recommends a further change to shorten the process for applicants who are not existing tenants. It also recommends extending the time for organisations to prepare their applications. The option of adhering to the current timeframes was considered but rejected based on the experience of the pilot phase as applicants require sufficient time to discuss their proposals with their governing bodies prior to submission.

## **DETAIL (Including consultation carried out)**

5. 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 commitment to support local communities, the Council's financial position, speculative interest from organisations and maximising opportunities to use and deliver services from local bases, with partners. Transfers may be on a freehold or long leasehold basis (25 – 125 years).
6. Update on CAT progress  
To date 18 community assets, just over 70% have either been transferred or been approved for disposal. Six have been transferred and a further seven approved for disposal and the council is actively negotiating the terms of the transfers. One tenant is preparing for community asset transfer and a range

of agreements with other tenants have either been agreed or are in the process of being negotiated.

7. Each asset's progress is detailed in the table below.

<b>TRANSFERRED</b>	
<b>Community asset</b>	<b>Progress</b>
Townhill Park Community Centre Meggeson Avenue	25 year lease to City Life Church, working with Townhill Park Community Association
St. Albans Resource Centre Northumberland Road	860 year lease to West Itchen Community Trust (WICT), working with Black Heritage Community Association
Woolston Community Centre Church Road	The Council already has a long lease in place with Woolston Community Association, that meets CAT requirements, so the building has effectively transferred
St. Denys Community Centre Priory Road	Freehold sale to St. Denys Area Community Association
Red Lodge Swimming Pool Vermont Close	Freehold sale to Red Lodge Community Pool Ltd
Bitterne Manor Community Centre Vespasian Road	99 year lease to Bitterne Manor Community Association
<b>NEGOTIATING TERMS</b>	
Freemantle Community Centre Randolph Street	Freehold sale to Freemantle and Shirley Community Association
Merryoak Community Centre Acacia Road	Freehold sale to West Itchen Community Trust working with Merryoak Community Association
Moorlands Community Centre Townhill Park Way	125 year lease to West Itchen Community Trust working with Moorlands Community Association
Sholing Community Centre Butts Road	Freehold sale to West Itchen Community Trust working with Sholing Community Association
Kingsland Community Centre Winton Street	Freehold sale to West Itchen Community Trust, working with Kingsland Community Association
Northam Community Centre Kent Street	125 year lease to West Itchen Community Trust working with Northam Community Association

Harefield Community Centre Yeovil Chase	Freehold sale to West Itchen Community Trust.
<b>ORGANISATION PREPARING FOR COMMUNITY ASSET TRANSFER</b>	
Swaythling Neighbourhood Centre Off Broadlands Road	24 year lease to existing tenant should be completed by end April 2018. Once completed the tenant will progress their application for community asset transfer
<b>OTHER AGREEMENTS</b>	
Lordshill Community Centre (former nursery building next to Oaklands Community Pool) Cromarty Road	24 year lease to Lordshill Community Association (formerly based in Andromeda Road) completed. The tenants have security of tenure and no longer want to progress an application for CAT. NB: The former Lordshill Community Centre building has been leased for two years to Majesty House Church.
Regents Park Community Centre	20 year lease to Regents Park Community Association completed.
Lordswood Community Centre	24 year lease to existing tenant should be completed by end April 2018.
Coxford Community Centre	5 year lease to Oaklands Community Pool Ltd should be completed by end April 2018
Clovelly Centre	Tenancy at Will under negotiation with current tenants.

8. This table illustrates that some existing tenants have chosen to progress community asset transfers on their own; others have chosen to partner with another organisation. Several community associations have chosen to partner with West Itchen Community Trust.
9. The leases agreed for Lordshill and Regents Park Community Centres and under negotiation for Swaythling, Clovelly, Coxford require the tenants to undertake all repairs maintenance, insurance and compliance, thus relieving the Council of any financial involvement with these buildings.
10. It has been over a year since the first three transfers were completed and as part of the CAT process a monitoring form was issued to each of the tenants asking for an update on progress against the aspirations made as part of their applications:-
  - Townhill Park Community Centre was transferred to City Life Church working in partnership with Townhill Park Community Association in October 2016. Three new regular bookings have been secured since the transfer and they also have approximately one to two 'one-off' bookings per month. Back in May 2017 they held a 'May Fest' Event which was attended by 300 local people and directly resulted in the formation of a community choir.
  - St. Albans Resource Centre, was transferred in July 2016 to West Itchen Community Trust working in partnership with The Black Heritage Community Association (BHCA). As the leaseholder, WICT is committed to ensuring the continuation of the BHCA as prior to the

transfer the group was in danger of folding. The transfer has enabled the group to continue to use the venue on a rent free basis. WICT has secured a commercial loan against the value of the property to enable improvements to the building to be carried out.

- Red Lodge Community Swimming Pool continues to thrive and since the freehold sale in November 2016. Bookings for one off parties have continued to grow and they now average 10 per month. They have secured four new regular bookings and with the popularity of one, Romsey Arthritis Hydro Group, increasing their sessions from one to four per week they now have little capacity to take on any new bookings. They also reported that their management committee has expanded.

11. This progress demonstrates how the community asset transfer process has been able to secure locally valued assets for the future. The transfers of St. Albans and Townhill Park have shown how partnership working between likeminded organisations can lead to sustainable community assets.
12. Adoption of a Community Asset Transfer Policy  
The Community Asset Transfer (CAT) Strategy provided the framework to drive forward the first phase of the Community Asset Transfer Programme. A Strategy was required at this point because it was the first time that the council proactively considered transferring assets at less than best consideration to community, voluntary and faith organisations
13. The first phase is nearing its conclusion and that, together with the fact that the end date of the Strategy has been reached means it is appropriate to review it and create a Policy in order that any future transfers can be undertaken as part of business as usual.
14. The proposed Community Asset Transfer Policy sets out the principles and process by which all council community asset transfers should be carried out. It therefore creates a common reference point to ensure that principles are consistently applied.
15. As part of creating a Policy the CAT process has also been reviewed both in the light of experience and with the objective of developing a process which meets future requirements.
16. The key differences between the existing Community Asset Transfer Strategy and process and the proposed Community Asset Transfer Policy and revised process are:
  - there is greater emphasis on operational detail including the process in the draft policy document
  - the policy makes it more explicit that the council has the flexibility to transfer assets that would have the potential to generate capital receipt whereas the Strategy simply contained the phrase “The council also retains the right not to transfer assets that have been identified as having potential significant capital receipt”
  - The CAT process has been shortened to a ‘one stage’ application process for both existing tenants and new applicants to further streamline the process
  - The time frame for submission of documents when the council advertises an asset has been increased from a maximum of 8 to a

maximum of 12 weeks. This is based on the experience of applicants in the first phase.

## **RESOURCE IMPLICATIONS**

### **Capital/Revenue**

17. The costs associated with the disposals are the internal council resource costs and other professional fees which will be met from existing budgets within the relevant portfolio.
18. Cabinet agreed on 18th 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.

### **Property/Other**

19. There are transfers taking place where the assets in question (Moorlands and Northam Community Centres) have 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 adequately protected, then the Council would be subject to clawback and need to repay the capital investment back to Central government. Any disposal of property where central government capital has been invested requires a formal notification to the Secretary of state to decide whether the Council is in breach of the terms within their original funding agreement by disposing of the asset. As long as the Council can evidence protection that EYEC services will continue to be delivered for the duration of the liability period then there are no grounds for clawback
20. The disposal terms for Moorlands 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, then the Council may choose to exercise their right to identify an alternative EYEC provider and Children's Centre services to meet the demand for early years' places.
21. An exception to this is Merryoak Community Centre, as the early years provision has been relocated to the nearby Festival Hall. The DfE is has deferred (but not waived) the clawback to Festival Hall as an asset of at least equal value which will continue to be used for purposes consistent with the grant. This released Merryoak from the terms of the grant allowing the CAT to become a freehold transfer rather than leasehold.
22. 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.
23. Disposals will be at less than best consideration where the disposal terms are less than at full open market value

24. 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.
25. Under the terms of leases and statute, tenants will have full health and safety and compliance duties.
26. 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.
27. On 20 December 2016 Cabinet considered a progress report on the community asset transfer programme. That report noted that the responsibility for administering any ongoing or new CAT transfers will be transferred to the Service Director for Growth and rest within the Capital Assets Team. This transfer will take place from 10th April 2018. The staffing resource to support CAT within this team has been identified as part of the recent restructure.

## **LEGAL IMPLICATIONS**

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

28. 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:

*“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.”*

In order to use the General Disposal Consent (England) 2003, the properties 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.

29. 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, its community strategy, all normal and prudent commercial practices, clear and realistic valuation advice on the asset in question and EU State Aid rules.

### **Other Legal Implications:**

30. 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.

31. 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.
32. 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.

### **RISK MANAGEMENT IMPLICATIONS**

33. If there is no common reference point for community asset transfers, there is a risk that the principles are inconsistently applied across. This might increase the risk of legal challenge and reduce the fairness and effectiveness of the council's approach.
34. Specific risks and mitigating actions have been addressed in the sections on Resources and Legal Implications above.

### **POLICY FRAMEWORK IMPLICATIONS**

35. The recommendations in this paper support the delivery of the Southampton City Council Strategy 2016 – 2020 outcome Southampton is an attractive modern city where people are proud to live and work. This is because the community buildings are a base from which a range of activities will be provided including family friendly events and the organisations managing the facilities have access to funding sources to improve the assets that aren't available to the Council.
36. The recommendations also support the delivery of the Health and Wellbeing Strategy 2017 – 2025 outcome Southampton is a healthy place to work with strong, active communities. The range of activities provided from community buildings include those with a positive health impact as well as opportunities for people in local communities to come together, strengthening local networks.



<b>KEY DECISION?</b>	<b>Yes</b>	
<b>WARDS/COMMUNITIES AFFECTED:</b>	<b>All</b>	
<u>SUPPORTING DOCUMENTATION</u>		
<b>Appendices</b>		
<b>1.</b>	<b>Community Asset Transfer Policy</b>	
<b>2.</b>	<b>Key Stages in the Community Asset Transfer Process</b>	
<b>3.</b>	<b>Equality and Safety Impact Assessment</b>	
<b>Documents In Members' Rooms</b>		
<b>1.</b>	<b>None</b>	
<b>Equality Impact Assessment</b>		
<b>Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.</b>		<b>Yes</b>
<b>Privacy Impact Assessment</b>		
<b>Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.</b>		<b>No</b>
<b>Other Background Documents None</b>		
<b>Other Background documents available for inspection at:</b>		
<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>	
<b>1.</b>	<b>Not applicable</b>	