

EAST DEVON DISTRICT COUNCIL COMMUNITY ASSET TRANSFER PROCEDURE

Note: This procedure relates to Council owned land or buildings that are NOT managed as part of the Housing Service

1.0 INTRODUCTION

1.1 East Devon District Council (EDDC) believes community asset transfer is about giving local people and community groups control in the future of their area. In England the idea was introduced through the Quirk Review (DCLG 2007) and now has legislative force via the provisions of the 2011 Localism Act. If local groups own or manage community buildings and land it will help foster a sense of belonging and bring together people from different backgrounds. Community ownership and management of buildings can also play a part in raising local people's aspirations, in enhancing the local economy, environment and have the capacity to strengthen the community, voluntary and social enterprise sector.

2.0 PURPOSE OF THE PROCEDURE

2.1 This procedure outlines the Council's approach to Community Asset Transfer (CAT). The term 'community asset transfer' relates primarily to granting long leases or passing on the freehold of property assets at potentially less than best financial consideration to voluntary, community organisations, Parish Councils, Town Councils and social enterprises (Community Groups) where at a minimum the transfer can be cost neutral to EDDC. This procedure is about ensuring a transparent process, should a suitable asset/s be identified. This is not about offering up all assets for transfer as in many instances this will simply not make sense to either the community or to this Council. This is also not generally about transferring of assets piecemeal but more about a community and the Council taking a holistic approach.

2.2 Benefits to the local community, Community Groups and the Council:

- Devolving power to neighbourhoods or locally based Community Groups with an interest in the neighbourhood, in an effort to enable citizen involvement and community action.
- Act as a catalyst for social, environmental and economic regeneration (including the development of community enterprise).
- Stimulate the involvement of local people in shaping and regenerating their communities.
- Catalyst for local volunteering and increasing community cohesion and integration.
- Support the creation of community leaders, social capital and inspire others to improve their community.
- Enhance and promote local economic activity at a local level.

- Potential to create stronger, more sustainable Community Groups, providing financial security, recognition and management capacity.
- Ability to lever in additional resources, which would be unavailable to the Council acting independently.
- Enabling the 'up-scaling' of activities that promote social – economic wellbeing within community.
- Working in partnership with Community Groups can help the Council to achieve its priorities.
- Contribute towards efficiency savings and drive the diversification of public services in an era of austerity.
- Help to rationalise the Council portfolio and facilitate more effective and efficient use of its asset base.
- A stimulus for partnership working between Community Groups and the Council and improving the provision and accountability of services within communities.

2.3 The Council recognises the many benefits of CAT and will be proactive in using asset transfer as one of the tools at its disposal. The Council, therefore, aims to create a transparent, positive and proactive framework to enable asset transfer from the Council to Community Groups to happen and be successful in the long term.

2.4 Where the Council is to work in partnership with Community Groups post transfer, in some instances the Council might consider formalising this aspect contractually as part of any transfer.

2.5 The operation of this Procedure will need to have regard to the desired outcomes of other relevant Council policies and strategies.

2.6 The Council Plan sets out our main priorities and forms the focus of what we aim to achieve:

(1) Better Homes and Communities for all

(2) A Greener East Devon

(3) A Resilient Economy

3.0 PRINCIPLES UNDERPINNING THE ASSET TRANSFER PROCEDURE

3.1 The CAT Procedure will be underpinned by the following principles:

Commitment to a thriving Community & Voluntary Sector

- The Council recognises that community led solutions can sometimes achieve better outcomes than central initiatives.
- Use asset transfer as a means of supporting Community Groups to become sustainable on a long term basis.
- CAT might require a long term partnership commitment on the part of the Council and the Community Group. This is the best way of minimising the risk of failure.
- Flexible lease terms to enable Community Groups to adapt and achieve long term sustainability or the transfer of the freehold interest.
- Measurable and accountable benefits to local people. EDDC might want to set standards e.g. for play equipment.
- The Council expects that this Procedure will encourage openness, conversation and understanding between groups and the wider community.

Pro-active and strategic asset management intent

- CAT will become integrated in Council practice as an option for dealing with surplus property assets or assets that can be more effectively managed at a **local level for the benefit of the local community. Any transfer will not increase costs to EDDC. This procedure does not in any way restrict EDDC's ability to sell assets commercially at any time nor will EDDC transfer an asset if it impacts on our ability to manage assets in a locality moving forward. Each and every application will be treated on its own merits depending on a) the asset, b) the community group that wishes to take on the asset and for what purpose, (c) any impact on EDDC's ability to manage other assets in the locality and d) the financial impact on EDDC.**
- It should be noted that the Council does not commit to transfer an asset at any time or at all and reserves the right to withdraw from discussions or negotiations at its absolute discretion.

Clarity and transparency in decision-making

- A single gateway approach is taken, providing a clear point of contact for Community Groups with CAT enquiries.
- The Council will encourage Community Groups to consider taking on an Asset subject to the restrictions and requirements contained within this procedure.
- Community Groups will not be required to undertake detailed feasibility work until an 'in principle' decision has been taken by the Council.

4.0 WHO CAN APPLY

- 4.1 Interest will be welcome from Community Groups which may be area based around communities of geography, identity or shared interest. Ideally, all applicants should meet the following criteria:

- Be community led and demonstrate support for the CAT and have clearly defined objectives which would be enhanced through the addition of the asset/s in question.
- The primary purpose must be non-commercial or with profits invested back into local communities.
- Must have a clear vision of the activities they wish to deliver, demonstrating positive measurable impacts.
- Demonstrate good governance operating open and accountable processes and a constituted governing board who follow clear Terms of Reference.
- Meet statutory requirements and demonstrate an inclusive approach in its policies and practices including a commitment to promoting community cohesion and integration.
- Have the skills to deliver services and manage the asset/s to be transferred.
- Demonstrate the asset/s will be run without Council subsidies or support.
- A sustainable operating model for revenue requirements, use and maintenance will be needed.
- Demonstrate how asset transfer will support the aims and priorities of the Council.

5.0 BASIS OF TRANSFER

- 5.1 Community Groups may need to provide contractual assurances to ensure that the asset is retained for community benefit. If this is not possible a detailed explanation through, for example, Memorandum and Articles of Associations should be provided. It is standard practice for the Council to place a restriction on use although there might be exceptions.
- 5.2 The Council will offer legal agreements to enable Community Groups to manage and develop the land or property as an asset ensuring the use of the asset as a community asset is retained by the applicant. Consideration to payment of professional fees and whether the Council seeks reimbursement for its own costs will be on a case-by-case basis.
- 5.3 The Council will pursue Freehold or Leasehold arrangements with the term being set after carefully considering the needs of the Community Group, the position of the Council, the condition of the asset/s and the requirements of potential funders or lenders. As a guide:

Freehold Transfer – will be considered if preferred. Any transfer proposal will need to make a strong case that freehold is a necessity for success and provide reassurance that community benefit will be maintained in the long term and is beneficial to the Council.

Transfer by Lease - A lease may be granted if appropriate

Overage provisions may well include ensuring uplifts in value are shared.

- 5.4 Community Groups may be expected to produce a statement of community benefit on an annual basis – annual report accompanied by accounts as appropriate will usually suffice. The benefits to be realised shall be agreed in advance and in some instances incorporated into a Service Level Agreement with the Council where the Council wishes to retain some control.
- 5.5 When there are a number of interested parties in an asset/s the Council will aim to encourage collaboration. When this is not possible and as a last resort a competitive process will be used to decide the organisation which will become the Council's preferred partner in the transfer process.
- 5.6 The Council will ensure that information relating to the condition of the asset/s and running costs is passed to the applicant to support decision making.
- 5.7 There is a general expectation that the asset transfer will be cost neutral to the Council from year 1.

6.0 HOW TO APPLY & HOW WE WILL ASSESS

- 6.1 Community Groups should in the first instant submit an Expression of Interest Form to the Council for an in principle decision on the proposed Transfer. The Expression of Interest Form is found here: [Stage 1: Expression of Interest Form \(appendix A\)](#).
- 6.2 If after submitting an initial Expression of Interest, the Council deems the application to be unsuccessful the applicants will be advised directly. If successful at this initial stage the Council will then request a further detailed and more robust business case to enable the Council to make an informed decision whether to agree to the proposed Transfer. The expected content of the detailed business case is detailed below. This is only a guide and will be dependent on each particular case and informed by the Council's requirements.
- About your organisation - Track record, current plans, partnerships and people, governance, legal structure.
 - Summary of the project - Project objectives and expected outcomes, proposed programme for delivery, proposed impact/benefits of the project to the local community, together with proposals for management and operation of the asset (staff, volunteers, SLA with the Council).
 - Market Need – what local needs will the project be responding to (who will be the beneficiaries)?
 - Pricing – what is the rationale for pricing (for services, renting space etc.)?
 - Sustainability – how the performance of the asset/s will contribute to sustainability through its life cycle.

- Equality, Diversity & Community Cohesion – evidence the project will meet all the relevant requirements of the Equality Act 2010 and assist the Council in promoting community cohesion.
- Resources/Financial projections - Cash flow for first year, should include budget (3-5 years), should include examination of profit and loss and capital expenditure (if capital is required to redevelop the land or building/s). The long term financial sustainability of the proposal should be clearly demonstrated along with recognition of implication of any reduction in income stream.
- Risk assessment/management/mitigation - Identification of the different risks 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 strategy will be to prevent the risk items from occurring, or coping with them if they do, should also be provided.
- Evidence that ongoing staffing liabilities through TUPE obligations have been properly considered.
- The applicant will also be expected to submit copies of governing documents, any evidence of external advice provided, expressions of support from partners/customers, copies of accounts (where available).

6.3 If the District Council requires, this process can be fast tracked.

7.0 KEY STAGES AND INDICATIVE TIMESCALES

7.1 In considering the potential for asset transfer the Council will follow the process already detailed with the following indicative timescales.

7.2 The Portfolio Holder for Economy and Assets will retain an overall responsibility for Cabinet guidance to ensure a strategic decision is taken supporting community needs and Council objectives. Other Portfolio Holders will be involved depending on the type of asset/s.

7.3 The timeline set out below is purely indicative and will vary depending upon the complexity of each application. It is also envisaged some of the points below will run concurrently with the process becoming more proficient as each application is considered. This process and timeline is further explained in Appendix B. The process of Asset Transfer takes time and therefore must be fully understood by the Council and reflected in decision making in respect of budget settlement.

7.4 1. Request – from Community Group

Submit a request for a transfer by completing an initial Expression of Interest Form. If an application is deemed unsuccessful after this stage the Council will inform the applicant of its decision and reasons. A response will be

provided within four months. This decision will be made by the Portfolio Holder for Economy and Assets on the basis of a report from the Service Lead – Place, Assets & Commercialisation which will be written following consultation with:

- a) The Council's Senior Management Team
- b) Ward Member(s)
- c) The Asset Management Forum
- d) Any other persons or bodies as deemed appropriate

7.5 **2. Preparation and consideration of Full Business Case**

If the application is considered for progression then the body making the application will be asked for a Detailed Business Case. The Council will verify the credentials of the Community Group and ensure that if appropriate other parties in the area are aware, consulted and have been able to make representation. The Detailed Business Case will be considered by:

- e) The Council's Senior Management Team
- b) Ward Member(s)
- c) The Asset Management Forum
- d) Any other persons or bodies as deemed appropriate

A report will then be taken to Cabinet for an 'in principle' decision on transfer. In certain circumstances it may be necessary for Council to decide a matter in which case Cabinet will make a recommendation to Council for its consideration. Cabinet and / or Council will be expected to delegate authority for agreeing detailed terms of transfer to the Service Lead – Place, Assets & Commercialisation in consultation with Portfolio Holder for Economy and Assets along with any other relevant Portfolio Holder depending on nature of asset. This step is expected to take no longer than six months from receipt of a Full Business Case. If unsuccessful the applicant will be informed. If successful then the process will move to the next step.

7.6 **3. Processing detailed Heads of Terms**

Where there is an 'in principle' agreement then the matter will proceed to the detailed Heads of Terms stage where further consideration and refinement of the basis and terms of the asset transfer and any potential level of market discount, length and condition of lease or if appropriate the transfer of the freehold interest will be determined. Concluding this step will result in completion of documentary and legal formalities.

- 7.7 It is recognised that a pre-requisite of transfer success is the ability for the Community Group to be self-sufficient in managing those assets or if reliant on support from others, that this is identified and understood at an early stage and this is to be referenced within any heads of terms.