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Peterborough City Council

Community Asset Transfer Policy 2023

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1. Background - Community assets

A community asset is defined as land and buildings owned or used by the Council or leased or managed by community organisations for the benefit of residents and communities.

Peterborough City Council owns a number of assets that bring about a benefit to communities

These include, but are not limited to:-

- Community centres.
- Other assets that sit within the council's commercial portfolio that are leased or provided as a grant in kind to voluntary organisations that benefit communities and residents due to the specific work undertaken by the organisations concerned.
- Recreational and sports facilities often in parks and open spaces.

As part of developing a sustainable and placed focused approach to asset management Peterborough City Council will look to support community groups to come forward with proposals for community asset transfers where appropriate. This policy seeks to clarify the process being followed by the Council in relation to assets being transferred to community, voluntary or faith-based organisations.

2. Why is a community asset transfer policy required?

There may be times when council owned community assets are, returned to the council by community groups, become surplus to requirements, uneconomic to maintain or could be better run by the community themselves.

An asset transfer enables communities to own and manage facilities that may otherwise be closed down if the Council is unable to fund them.

This community asset transfer policy aims to provide a clear approach to the future management of these assets that will:

- define when a community asset transfer is appropriate
- ensure the process for community asset transfer is transparent
- apply a consistent approach to the assessment and process of transferring assets in the future, focussing on securing social, economic and environmental benefits of the asset
- ensure the efficient, effective and sustainable management of assets to minimise cost to the council and maximise benefit to the community it serves.

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3. Outcomes & Aims

The Council wants to achieve the following outcomes through a proactive community asset transfer programme:

- Community empowerment and benefits to the wider local community
- Building of local community capacity through the use of local skills, experience, knowledge and time
- Retaining valued local provision, thus improving local services in times of austerity, while contributing to savings
- Delivering placed based services that address local needs through community led and community focused assets
- Extending the use of a building or land
- Value for money and the ability to draw in other sources of funding not available to the council
- Social enterprise and social wellbeing, including community cohesion
- Financial viability, long term sustainability and external investment
- Delivery of council objectives through other partners
- A stimulus to partnership working

The council recognises that the increasing emphasis on localism means that it is even more important to work closely with the community, voluntary and faith sector to maximise our joint resources and take every opportunity to deliver quality services, tackling poverty, protecting vulnerable people and encouraging growth and sustainability. Our aims are to:

- Encourage and support the retention of local facilities which are used for a variety of social, community and public purposes without the use of council funds in the future – on the basis that we are satisfied that the business case for such a transfer is financially viable and sustainable in the long term
- Increase the effectiveness and efficiency of council owned community assets through local management
- Maintain local public facilities through community management
- Explore innovative ways of enhancing existing community facilities
- Support the development of social enterprises that clearly demonstrate returns to the local community

4. What is Community Asset Transfer?

Community asset transfer (CAT) is the transfer of land or buildings from the council to a third sector organisation. CAT supports community empowerment by enabling land and buildings and services to be retained or transformed for public benefit.

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Community asset transfer has the potential to achieve a number of objectives:

- to form long-term partnerships with third sector organisations
- providing assets for wider voluntary and community sector use
- maximising community benefit
- minimising financial liability for the council in the future
- supporting the building of social capital.

Community Asset Transfer can take place in different forms including through:

- a management agreement
- a licence to occupy
- a short lease
- a long lease
- freehold

Community Asset Transfer usually involves a transfer at less than market value, at a reduced cost, peppercorn rent or free of charge. The level of subsidy applied to the asset transfer, will be determined by the social, economic or environmental benefits generated by the transfer and the value of the asset.

Community Asset Transfer can apply to community buildings, community facilities and also other community venues owned by the council.

The Council recognises that CAT comes with risks and liabilities to both the Council as well as the third sector. Therefore, the process must include a robust framework to assess and manage risks so that all parties can make informed decisions.

A transparent framework is essential to enable the fair and equitable transfer of assets, therefore this policy should be based on the following set of principles, which should be followed by both PCC and Third Sector:-

- Clearly communicated timescales and decision making
- Partnership with Third Sector and encouragement of collaboration between community groups
- Inclusivity of provision so that the assets remain genuinely open and accessible to all sections of the community irrespective of their faith, culture, gender, sexuality, religion, political view or other protected characteristics.
- Decisions will be based on clear financially sustainable proposals, robust business plans (Appendix 1) and sound, evidence-based rationale for the transfer of assets – each proposal will be based on individual merits
- Any proposed transfer of asset must promote social, economic or environmental well-being and support the aims and priorities of the council
- Asset transfer will deliver agreed benefits to local people

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- Proactive consideration will be given for the co-location of services supported by dual use agreements
- Transfer decisions will not be made on a 'first come first served' basis but on a 'best fit' basis
- An 'asset lock' will be included in the terms of a transfer to ensure that the building remains for community benefit and use.

5. What criteria will the council use to consider a Community Asset Transfer?

In the interest of supporting a vibrant local civil society sector, the council will consider and prioritise the transfer of assets to local organisations. Therefore, it is unlikely that the council will prioritise transfer of assets to organisations whose remit is regional or nationwide. The prioritisations will be based on a geographical analysis of the community-based properties within an area and the needs of that area. The transfer of assets may be to either long established, stable, and secure formal organisations or newly formed community-based groups provided they can demonstrate they have the necessary expertise and experience to manage the asset.

The council will consider transferring assets in the following circumstances:

- Assets must be in the ownership of the council
- They are located where there is benefit to the community in having services delivered from the asset
- The asset has been identified in savings proposals to be surplus or where there is no clear rationale for the retention within PCC due to cost of maintenance, condition of the building or low levels of usage
- The proposed use will deliver a direct community benefit
- The Council can satisfy itself that the terms of the CAT lease are not financially detrimental.
- Disposals at less than best consideration will follow relevant legislation, Government guidance and the Royal Institute of Chartered Surveyors (RICS) document "Strategic Public Sector Property Asset Management" (September 2021) and state the best consideration that would otherwise have been received.

The council will not consider transferring assets in the following circumstances:

- Assets which have been identified as having a potential significant capital receipt, or where a significant amount of revenue income would be lost.
- Assets which have been identified as being required for strategic, planning or redevelopment/regeneration reasons.
- Transfers to individuals or businesses to be used purely as a vehicle for commercial ventures.
- Transfers solely to individuals

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- Where transfers contravene subsidy or procurement rules
- Assets which may be used solely for religious or political purposes/activities.

The criteria is strict to ensure that any successful transfer is sustainable, will be of benefit to local communities as well as the third sector organisation and will instil long term reassurance for the community which it serves.

Any application received will be assessed through a staged process (Appendix 2), starting with an expression of interest. Following assessment of this, organisations will be invited to submit a detailed application. Applicants must demonstrate how they meet the following criteria:-

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- Clear benefits to the council, its aims and priorities, the community-based group and the wider community.
- Demonstrate that it will continue to be used to support local community-based services and activities.
- Demonstrate strong and robust governance arrangements, including how local people will be involved in decision making in relation to the building and its use .
- Evidence of a track record in delivering services and/or managing property (if a new group evidence of this track record linked to management committee members and/or staff)
- Have in place a robust and sustainable business plan, for a 5-year period or show the willingness to create an acceptable plan within a specified time frame before the building is transferred.

6. Legal and Governance

Community asset transfer involves the transfer of assets, usually at less than Market Value, as a means to further local social, economic and / or environmental objectives. Section 123 of the Local Government Act 1972 requires that any disposals achieve best consideration and applies to the disposal of any interest in land and property. However, this was substantially amended under the Local Government Act 1972 General Disposal Consent Order (England) 2003, which gives Local authorities greater freedom to dispose of any interest in land at less than best consideration without the specific consent of the Secretary of State, where it could be demonstrated that they promoted the economic, social and environmental well-being of the area; and provided that the unrestricted undervalue of the asset to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).

7. How will community benefit be maximised?

To ensure that the property delivers maximum community benefit, the organisation concerned will need to ensure that the premises are used primarily for community-based activities that directly benefit:

- the local community
- residents of Peterborough.

Where appropriate, the building should be available for hire for general community use including weekends with priority given to local groups and grass-roots organisations. This requirement will form part of the transfer arrangements.

The arrangements will also, where appropriate provide opportunities for the organisations to be able to sub-let. These arrangements may require approval from the Council to ensure their interests are protected and no rights are claimed by the sub-lessee.

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The focus will be a flexible approach to the development of lease arrangements to maximise the benefit to the voluntary organisation, the council and wider community.

8. For how long will leases be granted?

The council will consider the specific needs of the third sector organisation, the condition of the asset and the requirements of any funders. The length of the lease will be based on:

- the business plan
- the capacity of the organisation to manage the asset
- financial capacity
- any future requirements for the asset by the council
- the condition of the asset.

Once granted, leases can be extended or restructured at a future stage, to meet the changes to the organisation's activities or circumstances.

Community asset transfer leases will be accompanied by a service agreement that will define the expected benefits of the community asset including any requirement for use of the asset by local residents for locally organised activities or use as a polling station. This may include the hours the asset is made available to local communities.

Leases will contain clauses that prevent the asset being assigned or sold on for unintended financial gain and the loss of the community agreed benefits.

Leases will also contain suitable clauses to ensure the return of the asset to the council if the terms of the service agreement are not met, or in the case of dissolution, insolvency or corruption.

9. How will community assets available for transfer be advertised?

The Council will advertise the availability of community assets through the council's website, various information networks available to the council and by directly notifying voluntary and community sector organisations.

10. Property maintenance

The lease will define responsibility for maintenance and repairs, insurance, and all outgoings on the property but the assumption that the responsibility will lie with the organisation party to any lease agreement.

The Council will provide information that it holds on the condition of the property. This assessment will be provided as a guide and the future tenant should carry out their own checks, as the property may have deteriorated further since it was last surveyed.

The council will review this policy at least once every three years.

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Appendices

Appendix 1- What should the business plan for community asset transfer contain?

- full details of the services and activities to be provided from the asset including any partnerships or co-location plans with other organisations
- evidence of the management capacity and experience of the bidding organisation to utilise and develop the asset
- detailed evidence that use of the asset is financially sustainable over the life of the proposed tenancy and will not incur future financial liabilities for the council; the council will assist by making relevant information and data available on request
- details of the anticipated benefits that the asset will produce and how these will be measured and evaluated
- details of the type of asset transfer and lease terms sought
- evidence of support from council officers, councillors, other voluntary organisations, local stakeholders

Assessment criteria

Organisations (or lead organisation where there is a consortium or partnership applying) are required to meet the council's criteria for commissioning. If these criteria are not met, no further consideration will be given to an application.

The business case assessment criteria will be made up of three sections:

- Organisational criteria (see notes below)
- Social value assessment (based on the councils' Social Value Framework)
- Activity specific assessment

The assessment forms for both expressions of interest and business cases are available on request.

Examples of organisational criteria that might be included are found in the table below. This is not an exhaustive list and at all times compliance with the organisational criteria will be proportionate and relevant to the size and value of the asset and the length of term of the asset transfer.

Provider's organisational criteria

Management You must have appropriate governance arrangement in place, hold regular committee meetings, including an annual general meeting; have a current business plan or demonstrate that one can be developed for the organisation.

Financial systems You must comply with all financial and accounting requirements of charity and/or company law and follow good practice in relation to internal financial controls. If you are a new organisation, you should demonstrate how you will implement good financial systems in future.

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Equal opportunities

You must have a written equal opportunities/diversity policy and code of practice that comply with current relevant legislation.

Insurance

Your organisation must have adequate insurance cover for activities, events, staff, premises, equipment, vehicles including:

Public liability; employer's liability cover if staff are employed; property and equipment insurance.

Criminal records checks

You must ensure and have evidence that all staff and volunteers working with children and vulnerable adults have been vetted through the disclosure and barring service. DBS checks should only be requested for eligible roles and not for all staff if it is not needed.

Safeguarding children and vulnerable adults

Organisations working with children and vulnerable adults must have safeguarding children and adult's policy and procedure in place. Staff and volunteers working with children and vulnerable adults must be appropriately trained. Evidence of these policies will be requested.

Equality

Detailed knowledge of the city and an understanding of how to apply that knowledge to engage / work with / deliver services in the city. Evidence of activities and services being designed to be accessible to as many residents as possible.

Cost

The ability for the organisation to meet any rental payments, pay external and internal repairs, insurance and utility costs. Evidence of a clear budget with income and expenditure expectations should be provided for the life of the proposed tenancy.

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Appendix 2- Indicative assessment process for community asset transfer applications?

Detail and processes included in each stage are below

Stage 1 – Advertising of Community Asset Transfer opportunity and request for expressions of interest

- Maximum of 4 weeks

Stage 2 – Review of expressions of interest received by council officers. Successful applicants informed

- 3 – 6 weeks depending on volume

Stage 3 – Selected organisations to compile business case

- 4 – 6 weeks

Stage 4 – Business case assessment by council officers and senior staff.

- Agreement in principle for one applicant
- 4 – 6 weeks

Stage 5 – Professional advice and council report

- 4 – 6 weeks

Stage 6 – Lease agreement and completion

- Maximum of 6 weeks

Ongoing - Asset transfer review

- Annual review of the service agreement targets and measure benefits
- Where applicable, 5-yearly renewal of the service agreement

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Breakdown by stage

Stage One

Once a building is identified as suitable for community asset transfer it will be advertised as open for Expressions of Interest.

This will be done by:

- Placing an advert on Peterborough City Council's website
- Letters will be sent to residents local to the building
- Community newsletters will include the opportunity (if you do not receive Peterborough city council's community newsletters please email xxxxxxx)
- An open day will be held at the building in this time for organisations to inspect the building.
- During this window, the webform can be used to submit an Expression of Interest in leasing the property (guidance available).

Stage Two

Council officers will review all Expressions of Interest against identified criteria (see the Expression of Interest guidance). Officers may ask for meetings with organisations to clarify points within the submitted form.

Organisations that satisfy the criteria for use will be informed by letter and invited to submit a more detailed business plan for their use of the centre.

Stage Three

The business case can be submitted in any relevant format but will need to reference:

- Organisational objectives and aims
- Evidence of the organisations previous impact and service delivery
- Specifics around the use of the building and what services/activities will be delivered from it
- Robust financial planning including details of any planned investment into the building and evidence of current financial capacity
- Evidence of the community need being address by the organisations plans and demonstrable community endorsement
- Evidence that new services and activities would not duplicate existing provision in the local area

Not essential but desired:

- Evidence of partnership working with other organisations
- Detail of the evaluation processes which will be used to measure the outcomes of the buildings' use

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During this business case development phase, organisations may request a meeting with council officers to discuss their draft plans before submission.

Stage Four

All business cases will be reviewed by council officers and relevant professional for suitability.

Applications will be assessed against the criteria laid out in the Community Asset Transfer policy document and will reflect the social value to the city of each application. These will include:

- benefit to local residents
- benefits to the council
- sustainability of the financial plans
- whether applications duplicate existing provision
- demonstrable community support
- demonstrable inclusive, impartial and equitable approach.

Each organisation will be invited to discuss their application with officers and relevant professionals to elaborate on any points and review any questions.

An “in principle” decision will be taken by the service Director. The successful group will be informed in writing.

Local residents will be informed of the decision and asked to comment as part of the subsequent report.

Stage Five

If needed, legal and profession advice will be sought by officers at this stage. The successful “in principle” organisations’ business case will be presented as a details report to the council’s corporate leadership team (CLT) and portfolio holder.

CLT will also decide whether cabinet are required to authorise the award of the Community Asset Transfer at this stage. If it is a report will be submitted to cabinet for member approval.

Once fully approved, written confirmation will be sent to the successful organisation. Should approval not be awarded, the asset will be reviewed and, if appropriate, re-advertised for further expressions of interest.

Stage Six

At the stage Peterborough Council’s Estates Team will work with the successful organisation to determine the full content of the lease, the rent and the length of the lease. This will be a standard lease that will be used for each and any CAT. Where works are necessary to a building prior to occupation, an agreement for lease will be granted pending the outcome of those works before a lease is granted.

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When both parties are happy with the heads of terms in the lease, the Estates Team will ensure the building is ready to be transferred and the organisation will be given the keys to the building.

Ongoing

Leases will be reviewed as a minimum every 5 years although shorter terms may be agreed at the lease stage.

Should there be any agreed outcomes and evaluation on the use of the building, the organisation will be expected to supply this to the council in line with the agreed arrangements. These may include usage statistics, service evaluations, or other key indicators and will be clearly laid out in the service level agreement.