



Community Asset Transfer Policy

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1. Purpose of this Policy and Scope

The purpose of this Community Asset Transfer Policy is to set out a transparent and consistent approach to applications and the decision-making process governing the transfer of assets in the district to Town and Parish Councils and community organisations (where applicable) and the council's commitment to community asset transfer where it benefits residents. To achieve this, it is necessary to demonstrate how community asset transfer supports direct service delivery, West Lindsey District Council's (referred hereafter as 'the Council') Corporate Plan, its objectives and other corporate plans and policies.

This policy applies to freehold assets that are owned by or under stewardship of the Council and are deemed suitable for community asset transfer.

This policy should be used when considering an application for a Community Asset Transfer to a voluntary or community organisation (VCO) or local Town and Parish Councils. This policy does not include the arrangements and policy governing nominations for Assets of Community Value (ACV) which is a separate procedure.

2. What is Community Asset Transfer?

The Council is in the position of being a custodian of assets which it holds on behalf of the community. For the purposes of this policy, Community Asset Transfer is defined by this Council as "the permanent or temporary transfer of land or buildings from the Council into the stewardship and/or ownership of a voluntary or community organisation (VCO) or Town or Parish Council".

The General Disposals Consent 2003 allows the Council to transfer the ownership and management of land and buildings they own to local communities at 'less than best consideration' (at less than full market value), where it can demonstrate the promotion of social, economic and environmental well-being. Any disposal at less than best consideration would need to be a transparent and evidenced decision.

The Council must fully consider the risks and benefits of any Community Asset Transfer, while ensuring that community assets are protected. Due to the diverse nature of the Council's land and buildings, one policy will not cover all circumstances. However, common themes will apply before consideration is given to the transfer of an asset, including:

- The nature and capacity of the applicant.
- Sound long term management and governance arrangements.
- Adoption of a robust option appraisals as part of the council's ongoing asset review process (including financial implications to the Council).
- The proposed use must meet with the Council's Corporate Plan objectives.
- Assessment of risks.
- Sustainable business cases.
- Socio-Economic or Environmental benefits.

- Legal Implications or restrictions

3. National and Local Policy Context

The Local Government and Public Involvement in Health Act 2007 and Localism Act 2011 brought about a number of public sector reforms aimed at creating strong, prosperous communities and delivering better public services through a re-balancing of the relationship between Central Government, Local Government and local people by giving residents a greater say over local services.

The Council faces many current challenges both financial and operational including:

- Devolution and Local government Reorganisation
- The current economic environment.
- Reduced government funding
- Increased public expectation.
- Reduction in available resources to operate and run non-operational and community buildings.

The outputs of this policy will give consideration to the aims and objectives in other council service area strategies including but not limited to:

- The Corporate Plan
- The Strategic Asset Management Plan
- The Capital Strategy
- The Local Plan

4. What Assets can be Transferred?

The Council must be the freehold owner of the asset. Assets that can be transferred, by way of Community Asset Transfer, include different types of land and buildings. The Council may consider transferring assets where it is considered to be beneficial for all parties involved and in the best interests of the community, which might include in the following circumstances:

- The asset currently supports council community objectives or was formerly delivering such objectives where the asset is now surplus to requirements.
- The asset has been reviewed and the asset has been identified for possible transfer. (Ward councillors must be engaged in such considerations).
- The asset generates social, economic or environmental benefits.

- Where the asset is being transferred to a Town or Parish Council, it would be required in order to deliver key services of that Council.

The financial implications need to be fully considered for any transfer, including an up to date valuation of the asset, to ensure that it offers value for money.

The Council will not consider applications for Community Asset Transfers where it is not considered to be beneficial for all parties involved and in the best interests of the community which might include in the following circumstances:

- The asset has been identified as being required for strategic, planning or redevelopment/regeneration.
- The proposed use of the asset does not meet its current use in planning terms.
- The transfer of the asset would be to an individual(s) or businesses to be used purely as a vehicle for commercial ventures. This does not include, for example, charitable organisations with trading arms, where profits are given back to communities.
- A transfer would contravene Trade and Cooperation Agreement Principles.
- The asset would be used solely for religious purposes/activities.
- The asset would be used for any political purposes/activities,
- The result would be detrimental to any individual, geographical community or community of interest, resulting in unlawful discrimination, harassment or a failure to promote good relations.

For the purposes of Community Asset Transfer and this policy, disposals will be by way of a freehold disposal or a lease. If a lease is agreed it should be for a period long enough to deliver the Council's community objectives and mitigate the risks associated with Asset Transfer. The lease length will be agreed via negotiations with legal advice sought throughout the process. Transfers to Town and Parish councils will be freehold.

This policy provides for a pro-active approach to the council by any VCO or town and parish council or for the council to identify itself where it believes it might be beneficial to explore transfer of an asset under this policy. In such instances, any Community Asset Transfer will initially be offered to the relevant Town or Parish Council as the local democratically elected body in the area of the asset. If this doesn't result in a transfer then the opportunity will be advertised appropriately and openly and in a manner which is appropriate and proportionate, inviting expressions of interest from VCOs.

The terms of any disposal (including freehold transfer) will be determined on a case-by-case basis and the Council will consider the specific circumstances of the applicant, sustainability of any business case, the proposed asset and intended use. Detailed consideration will be given to the community impact and benefit of the transfer in terms of economic, social or environmental wellbeing of the community.

There will be an Asset Lock in the lease that prevents the asset from being sold for unintended financial gain and the loss of the agreed benefits. Leases will contain suitable

clauses to ensure the return of the asset to the council (or its successor organisation) if the terms of the service agreement are not met, or in the case of dissolution, insolvency or corruption by the transferee and its representatives.

5. Organisations Suitable for Community Asset Transfer

Any organisation wishing to be considered would need to be based within the area of West Lindsey District Council and have strong links with and be of benefit to the community within the district. They must be able to demonstrate provisions within their legal structure that provide assurances that assets will be retained for community use and benefit and do not distribute any surplus they make to their members. The local community must also be able to participate within their operational and decision-making processes.

Consideration may be given to the following:

- Town or Parish Council
- Community Interest Company
- Charitable Trust
- Charitable Incorporated Organisation
- Charitable Company
- Other legal entities for Voluntary or Community Organisations (VCO)

If a group of individuals wish to form a VCO to benefit their local community, no application for a Community Asset Transfer can be completed until the group is legally formed into one of the entities listed above or similar type of organisation.

The Council has a duty to ensure that due diligence is carried out on any VCO to mitigate the risk of any transfer failing, as this would have a negative impact on local communities. In order to do this the VCO MUST meet the following criteria:

- A well-prepared business case for their proposed use of the asset. This will need to demonstrate that there is a clear intention for the long-term use of the asset for the benefit of communities within West Lindsey, and an understanding of the activities the VCO wishes to deliver.
- Prove a secure financial base to ensure long term sustainability, including providing copies of audited financial accounts where necessary. This will be subject to a formal valuation of the asset.
- Demonstrate a clear community/social demand for the proposed transfer.
- The staffing capacity to manage the asset and have management or committee members who possess the necessary experience and skills to manage the asset.
- Good governance, robust financial systems and all the necessary policies expected of a VCO in place.

- Not duplicate activities, services or facilities already provided elsewhere within the area or local community.
- Clearly demonstrate how they will comply with all statutory/regulatory obligations connected with the use and occupation of property which is the subject of the transfer request including but not limited to asbestos management, legionella and fire risk assessments, and responsibilities under the PREVENT agenda.
- Detail on how they will contribute to the council's corporate priorities.

Where two or more VCOs submit an expression of interest for a Community Asset Transfer of a particular asset, the Council's Property Team will make an initial assessment and recommendations to Management Team (MT). Any final decision will be subject to approval by the relevant Committee.

The Council reserves the right to refuse any application for a Community Asset Transfer if the criteria set out in this section are not met and all decisions will proceed through the Council's internal governance processes.

6. Application Process

The following process for considering applications for Community Asset Transfer will be applied by the Council either where the Council is identifying a possible transfer, or the initiative has come from a VCO:

Expression of Interest

- The VCO/existing Parish Council should submit a written expression of interest detailing the specific land/building that is the subject of the application, an explanation of the reasoning behind why it is needed and the aims and objectives of the transfer.

Review

- The Property Team will review the expression of interest seeking the views of other Council teams and consider if the applicant is suitable, meets the requirements laid out in this policy and if the asset is deemed suitable and appropriate for a transfer. The ward councillors should be invited to comment on the proposals. This will lead to a recommendation on whether the application can progress to the Council's MT. Should MT deem the applicant or asset unsuitable, the applicant will be notified. Any decision is final.

Detailed Analysis

- If MT agree that the application should progress through the Council's governance process the applicant will be invited to submit a detailed, evidenced business case and feasibility study. This will be assessed and evaluated by council officers against the criteria laid out in this policy. Detailed consideration will be given to the community impact and benefit of the transfer in terms of economic, social or environmental wellbeing of the community.

- A report will be prepared, taking into account any legal requirements under the Local Government Act 1972 (as amended). A decision could be made either by officers under the terms of the Council's constitution (and reported in due course to the Council) or reported to the appropriate committee for a decision.

Completion

- Heads of Terms will be agreed detailing all the main aspects of the transaction leading to the Council's legal advisors drafting formal documentation which will include service level agreements, support and investment plans and any other relevant documentation. This final stage will require the applicant to work collaboratively with the Council in order to avoid delays to the completion of the transfer.
- Timescales for the completion of a Community Asset Transfer are dependent on the nature and type of the transaction involved and the process can take up to a year to complete.

7. Outcomes

The aims and objectives of this policy are that the Council enables the transfer of asset ownership to VCOs or Town and Parish Councils, which in turn supports community wellbeing as well as safeguarding the delivery of public services. The policy also serves to set out the process and criteria for transferring assets to support the Council's priorities.

The success and outcomes of this policy will be measured principally by the success and delivery of community-based services and activities leading to community empowerment, generation of social, economic and environmental benefits to local communities.

The Council will also review whether any transfer is not delivering the required community outcomes. If agreed services or required outcomes are not being delivered, the Council will take all necessary steps to remedy poor performance including reviewing how the Council can further support the applicant in delivering objectives.

8. Review

This policy will be reviewed to incorporate legislative, regulatory amendments, best practice developments, or to address any operational issues with the policy.

The policy will be monitored and maintained by the Property Team.

9. Contact Details

Expressions of interest and documentation relating to any application should be marked for the attention of the Chief Executive and sent to the following address: West Lindsey District Council, Guildhall, Marshall's Yard, Gainsborough DN21 2NA