

Warwickshire County Council

Protocol for the lease or transfer of public assets to community interests

February 2011

1. Introduction

1.1 In rationalising its assets, the Council has a duty to ensure that the best possible value is realised.

1.2 A number of the Council's assets potentially have a specific social and community value. In some circumstances, enabling community interests to 'take on' such assets will be in the long-term interests of the Council and the community.

1.3 This protocol provides a framework around how and in what circumstances this might be done.

1.4 The Property Rationalisation Board will oversee the implementation of this protocol, and on-going progress on possible community asset transfers.

1.5 The Protocol will be reviewed by Cabinet on an annual basis, and/or following any legislation or significant guidance in relation to these matters.

2. Understanding Community Asset Needs

2.1 The Council (along with other public sector partners) will use a range of mechanisms to gain a greater understanding of the asset needs of local communities, and for local communities to develop a greater understanding of the local public asset portfolio. This will include mapping local facilities, and discussion through Community Forums, and with Town and Parish Councils, voluntary and community organisations, local services and other community interests.

2.2 The Council, in its community leadership function, will work flexibly with partners to develop imaginative solutions to meet local community needs. This might include brokering the short-term use of vacant commercial or public assets; the shared use of public assets; and where appropriate the transfer of local facilities to community interests.

2.3 The Council should, with partners, investigate the development of a register of assets of community value.

3. Disposal of surplus assets

3.1 When considering declaring an asset surplus, the Council will (unless there is good reason not to do so) give early warning to local community interests, including local Councillors, the appropriate Parish or Town Council, and any existing tenants, and discuss options for the future use of the asset.

3.2 The Strategic Director of Resources will report to Cabinet any interest shown in community management of the asset (or a portion of the asset), along with other options for the disposal of the asset.

3.3 If Cabinet decides to pursue the community interest, a Business Case will be submitted to provide further details on the proposed use of the asset, to include:

- Explanation of the community need
- Options Appraisal – are there any other options for meeting the community need?
- The planned benefits of the transfer
- Contribution to delivering the County Council’s objectives and the needs and priorities of local communities
- The capacity of the applicant to acquire and manage the asset
- Business plan for future use of the asset (including forecast income/expenditure)
- Details of how the proposed use of the asset will be monitored and details of ‘fall back’ arrangements should the transfer prove to be not sustainable
- Assessment of the long term social value to be provided
- Type of transfer sought, and proposed rental or purchase price (with explanation if this is less than market rate).

3.4 The Council should provide the community interest with sufficient time to develop its business case, and where appropriate, raise funds. Disposal of the asset on the open market should not be pursued until the business case has been considered.

3.5 On submission of the Business Case, Cabinet should agree whether to support the proposed Community Asset Transfer, and on what terms. This would generally be through either (a) full transfer of ownership, or (b) short-term lease with a view to full transfer of ownership, although in certain circumstances a long lease may be more appropriate. Cabinet could also choose to sell the asset for development, but require the developer to contribute towards a community facility.

3.6 Where there is an agreement for a short-term lease with a view to full transfer of ownership, the terms of this should be clearly set out, and a long-term proposal should be brought back to Cabinet within five years.

3.7 All existing lettings of surplus properties will be reviewed to ensure there is a clear long-term plan for the use of the asset, and where appropriate this could include full transfer of the asset to community ownership.

4.0 Lettings of non-surplus assets

4.1 All lettings of non-surplus assets to voluntary and community organisations should fall within two categories:

(a) Leases linked to service contracts

Commissioning teams may in some circumstances be able to make a public asset available for the delivery of a commissioned service. In this case, the asset should be available on the same terms to all potential bidders, should be explicit in the

terms of any tender documentation as an actual cost, and the lease should expire when the contract ends. Where appropriate potential bidders should have the option of using their own assets to deliver the service.

(b) Grants-In-Kind

Directorates should continue to have the facility through their own resources to make 'Grants-in-kind' available to offset lease rents for a maximum five years to enable the establishment of a new community service (with a second term of up to 5 years in exceptional circumstances). The grant could be tapered as the organisation builds its capacity and ability to generate income.

4.2 All lettings of non-surplus assets which fall outside these criteria will be reviewed, and where appropriate the asset declared surplus.

BACKGROUND AND SUPPLEMENTARY INFORMATION:

1. Introduction and Context

1.1 Communities running and taking over public assets is a key strand of the Government's vision for a Big Society, and is highly relevant as the Council seeks to rationalise its asset portfolio and reduce the number of service outlets

1.2 Since the Quirk Review ('Making Assets Work') in 2007, Local Authorities have been encouraged to transfer the ownership and/or use of public assets to local communities in order to increase the number of people engaged in the running and ownership of local services and assets.

The Coalition Government, through the Localism Bill, is looking to take this further and introduce new powers to help communities save local facilities and services threatened with closure, and give communities the right to bid to take over local state-run services.

1.3 The Localism Bill, currently being considered by Parliament, would require local authorities to maintain a list of public and private "assets of community value". There will be a mechanism for community groups to put forward land or buildings for consideration. When listed assets come up for disposal (either the freehold or long leasehold), there will be a moratorium preventing immediate sale, allowing communities time to develop a bid and raise the capital to buy the asset. The local authority will be able to determine how long the moratorium will be. At the end of the moratorium the listed asset would come onto the open market.

1.4 The County Council has a history of transferring disused facilities into community management – including All Saints Primary School to Bath Place Community Venture (1973); Bulkington Village Centre (1996), and Tysoe Fire Station (2004); and also of involving local communities in the management of facilities hosting Council-run services such as youth clubs and children's centres.

1.5 Community Asset Transfer can support the Council's Localism agenda and the rationalisation of assets. In particular:

- Neighbourhood-based multi-purpose community-led facilities can become a hub of local community activity, a lever for additional resources, and a mechanism for engagement and the flexible delivery of local services.
- Some specialist sites, such as nature reserves, may be more appropriately managed through an appropriate Trust, enabling the Council to rationalise its portfolio.
- For some assets that are already under long-term community management, there may be benefits to both the community interest and the Council to both parties in a full transfer of ownership

1.6 With support from the Development Trust Association, Rugby Borough Council and Warwick District Council have been involved in pilot schemes to look at the possible transfer of specific assets to community ownership or management. The County Council has taken a supportive interest in both these pilots.

1.7 There are some inconsistencies in the Council's current practice, and this protocol seeks to standardise the Council's approach. It is expected that the District Councils will adopt a similar approach.

2. Existing Policy and Practice

2.1 The way in which the Council declares an asset surplus and then disposes of it is set out in the following documents:

- Procedure for Declaring Property Surplus (agreed by Cabinet on 10th Sept 2009)
- Policy regarding property disposals and the granting of concessionary rent terms (agreed by Cabinet on 19th Dec 2002)
- General Disposal Consent 2003
- Protocol on disposals at less than best consideration (agreed by Cabinet on 16th Sept 2004)

2.2 All surplus assets must be sold or leased at not less than open market value (i.e. best consideration) save where Cabinet is satisfied that the merits of particular schemes justify a disposal at less than best consideration.

Any disposal at less than best consideration must be agreed by Cabinet (who may refer the matter to an Overview and Scrutiny committee for consideration first, or to full Council if appropriate).

In making its decision, Cabinet must consider:

- how the transfer fulfils the Council's fiduciary duty in a way which is accountable to local people;
- the circumstances and justification of the transfer
- the capital and revenue implications
- how the transfer will further the Council's corporate objectives

2.3 A lease term will not normally exceed 25 years unless there is an exceptional requirement to dispose of a leasehold interest for a longer period.

2.4 Requests for concessionary rent terms are considered by Cabinet on the merits of individual schemes but do not normally exceed 5 years from start up.

2.5 There is no specific policy regarding the lease of non-surplus assets to third sector organisations, and there are currently a variety of arrangements in place.

2.6 Where appropriate, before an asset is declared surplus, the Council will approach the voluntary and community sector to see whether any organisation has an interest in a transfer of the property.