

TITLE	Model for Community Asset Transfers
FOR CONSIDERATION BY	The Executive on 31 March 2016
WARD	None Specific
DIRECTOR	Graham Ebers, Director Finance and Resources
LEAD MEMBER	Philip Mirfin Executive Member for Regeneration and Communities

OUTCOME / BENEFITS TO THE COMMUNITY

The customers and users of community assets will be able to deal with use related matters at a local level through Town or Parish Councils or Community Groups.

RECOMMENDATION

That the Executive approves the Heads of Terms to be used under the Model for Community Asset Transfer, as developed by the Member Task and Finish Group.

SUMMARY OF REPORT

A report was approved by Executive on the 28th January setting out the proposals for developing a process to fast track Community Asset Transfers by establishing a model of terms and conditions to be developed by the Task and Finish Group.

The terms and conditions now agreed by this Group are attached as Appendix 1

Approval of these terms will ensure that best endeavours are applied to:-

- deliver a more effective use of community assets in the future and in particular to avoid arrangements that do not generate an optimal position for the Council.
- supports the Efficient Government agenda in streamlining the processing of applications, approvals and service delivery for community asset transfers.
- provides an extension of delegated powers that will save Member and officer time in respect of processing applications and will establish a consistent approach to the transfer of properties. (The Council's Constitution currently states that leases over 14 years require approval from the Executive. A further report to the Constitution Review Working Group seeking delegated powers for the grant of Community Asset Transfer leases for up to 30 years, will follow).

Background as set out in the 28th January report.

What is Community Asset Transfer?

Community Asset Transfer is an established mechanism used to enable community ownership and management of publicly owned land and buildings. The General Disposal Consent allows a range of public bodies to transfer the ownership and management of land and buildings they own to local communities at, where appropriate, 'less than best consideration' – i.e. at less than full market value. This may be through the sale or long-term leasing of land or premises.

Although its evolution pre-dates current Government policy, the potential opportunities and benefits of Community Asset Transfer have been brought back into focus by more recent national policy developments encouraging community self-help and ownership through initiatives such as the Big Society and a number of powers introduced via the Localism Act 2011.

What is WBC's current position?

Central government is encouraging local authorities to reduce the number of assets in its control and to empower communities to deliver services at a local level. These goals can be addressed by transferring assets from Borough Council control to local Town Council and Parish Council (TC/PC) or Community Groups control in accordance with Borough requirements through the terms of the lease. This has the advantage of devolving powers to attract funding, utilising Section 106 funds and support at a local level and delivering revenue savings for WBC, with a potential for shared profit for both parties.

In this connection, it is proposed that consideration be given on a case by case basis to commuted sums under S106 agreements being transferred with the asset to the relevant Town or Parish Council or Community Groups.

WBC currently does not have a policy regarding this method of transfer, but a number of recent initiatives and some emerging requests suggest that we should explore whether we develop a policy around Asset Transfer. This policy would need to satisfy our ambition to both generate income and reduce revenue costs to achieve value for money, but also to enable us to serve broader community outcomes.

Whilst it is incumbent on the Council to secure best value for the community there have previously been examples of Towns, Parishes and community groups making requests to the Council to lease assets where agreements have failed to maximise the use of the asset and maximum benefits have therefore not been delivered. This has involved the Council in more financial support/exposure than had originally been anticipated. The proposed Model for Community Asset Transfers through lease agreements for up to 30 years, is designed to deliver a more effective use of community assets in the future and in particular to avoid the mistakes of the past.

As a proposed new policy and procedure, this requires Executive approval.

Currently:

- Leases up to 14 years can be approved by the Service Manager, Strategic Property in consultation with Director of Finance & Resources.
- All leases over 14 years require approval from the Executive.

This report proposes that powers be delegated to the Director of Finance and Resources in consultation with the Executive Member for Regeneration and Communities, and the Executive Member of the current service to approve Community Asset Transfers under leases of 14-30 years that comply with this recommended policy framework.

Proposals for community lease disposals/projects will need a robust business case or agreed proposal based on a pro forma produced by Borough Council officers and backed by feasibility studies and option appraisals. All bids will be evaluated to establish that overall the best community and commercial value is being achieved. This information will also be required to support any capital or revenue bid if the Council is making a financial contribution. Tenancies at Will pending a formal lease will no longer be granted in order to protect the Council's interest and occupation will not be permitted prior to a formal lease being completed.

Lease disposals at nil or less than market value under the social wellbeing powers of Circular 06/03 should be the exception. In these circumstances the loss of value must be fully justified by identified and tangible benefits to the Council in bringing forward a specific priority.

If there are competing groups seeking to occupy the Council's assets, a tender process may be required and preference will be given to the proposal that offers the best value for Wokingham Borough Council.

Where do we want to go?

Where mutually beneficial, the business case for making this recommendation is that incremental savings will be achieved by the Council from the reduced cost of providing community beneficial facilities with the potential opportunity of receiving income on a profit sharing basis in the future. Moreover, further savings in the Council's staff resources could be made from reduced day to day management requirements.

Much of this runs in parallel with discussions concerning the relationship between the Borough and the Town and Parish Councils and how we can improve joint working in the future to provide community facilities and services. Equally, we will want to debate the advantages and disadvantages of transferring assets to community groups. The Community Asset Transfer Model facilitates such transfers without detriment to either party.

Policy Framework as set out in the 28th January report.

	The Policy Framework under which the model will operate is proposed as;
1	Safeguarding of the Council's financial interest by securing the best financial

	return.
2	Seek best use of Council owned assets and to ensure services and community value is delivered by the local community for the benefit of the community
3	To support third party public sector bodies in taking over the responsibility of assets where this is in the best interests of the Borough Council.

The recommended process for delivering this objective includes:-

- 1) Completion of Area Reviews, consultation with Service Heads and consideration of findings by the Asset Review Programme Board.
- 2) Consult with Ward Councillors and Lead Members and publicise to all other Members via the Political Assistant Officers. If any Member has concern regarding the action it will be reviewed by The Executive.
- 3) Communication with Towns and Parishes and then other public sector bodies to seek expressions of interest. If property is already occupied by a viable Community Group, then they will be approached first.
- 4) Review expressed interest.
- 5) Public bodies or Community organisations to create a business case (based on a pro forma produced by Borough officers) and draft terms to be agreed through negotiation with the third party using the Asset Transfer Model as a starting place.
- 6) If draft terms are acceptable and agreed, proceed and finalise by way of a legal agreement.

Analysis of Issues

The options are:-

- 1 - To do nothing and continue to process each application on an individual basis without consistency or policy or procedures in place.
- 2 – To refuse all applications and retain the assets within WBC control at the risk of failing to comply with government guidance and appeals by community bidders.
- 3 – To adopt a model for community asset transfer that provides a framework for Officers and community bidders.

Task and Finish Group

The Group met on 9th December and 10th February and agreed a Model for Community Asset Transfer for Executive approval.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save) Income Generated	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	N/A	N/A	N/A
Next Financial Year (Year 2)	See Other Financial Information	Depends on the assets that come forward for transfer	Depends on the assets that come forward for transfer
Following Financial Year (Year 3)	See Other Financial Information	Depends on the assets that come forward for transfer	Depends on the assets that come forward for transfer

Other financial information relevant to the Recommendation/Decision

Currently budgets are provided for the management of community assets with little or no income being received to offset the costs. It is anticipated that use of a Model for Community Asset Transfer will reduce revenue costs.

The overall financial impact will depend upon the number and nature of Asset Transfers agreed.

Cross-Council Implications

Staff resources will no longer be required to deal with day to day management of the community assets that are transferred and this resource can be directed towards support in line with WBC policies and aspirations.

List of Background Papers

None

Contact Chris Gillett	Service Strategic Assets
Telephone No 0118 974 6688	Email chris.gillett@wokingham.gov.uk
Date 18 March 2016	Version No. 1

Heads of Terms for Community Asset Transfers to be agreed under Delegated Powers

1.	Property	Land, buildings and structures forming
2.	Term	Up to 30 years with effect from 1/4/..... NB A term of over 30 years will require Executive Approval
3.	Break Clause	Operable by Town/ Parish Council or other Community Organisation after the 2nd and 5th years of the term. Thereafter, tenant only break by giving one year's notice with one exception as detailed below. Break clause to be operable by WBC with 6 months' notice if it is found that the property is not being used for its intended purpose, the tenant's failure to fulfil their repairing obligations is having a detrimental effect on the asset or the management of the asset is having a negative impact on the Boroughs reputation. Break clause operable by WBC on a minimum of 2 years notice in the event that the land or any part thereof is identified for an alternative use within adopted planning policy documents.
4.	Use	Community use and any additional social or commercial use to be subject to WBC consent as landlord which will not unreasonably be withheld.
5.	Rent and Income	The Tenant will either pay a market rent subject to RPI reviews at five yearly intervals or will pay the Borough up to 50% of the net profit rent generated from the asset. Net profit to be income less all expenditure including an allowance of 1% of gross income for management fees.
6.	Hire Charges & Concessions	Room hire fees to be set by the Town/ Parish Council or other Community Organisation Existing concessions and contracts to be honoured, WBC use to continue on the current terms (subject to inflation) for the first two years of the lease and WBC to be granted 10% discounted booking rates for use of facilities for the duration of the lease.
7.	Phased Budget & Financial Support	WBC to offer a contribution based on 80% of the average WBC budget excluding repairs and maintenance on expenditure incurred over the previous 3 year period. (Budget

		<p>income and expenditure to be disclosed to the Town/ Parish Council or other Community Organisation prior to transfer).</p> <p>This will reduce by 20% each year to enable the project to become established. All operational running costs including responsibilities for maintenance will be met by the lessee as will any short fall from the transferred budget.</p> <p>An agreed schedule of items will form part of this agreement, e.g., car park maintenance.</p> <p>Alternatively a reduced flat rate contribution from the Borough may be agreed subject to five yearly review.</p>
8.	Insurance, Repair & Maintenance and Condition Surveys	<p>Premises will be let to the Town/ Parish Council or other Community Organisation on full repairing and insuring leases. Responsibility for insurance will remain with WBC and the cost of the premium recharged to the Town/ Parish Council or other Community Organisation subject to Town/ Parish Council or other Community Organisation agreement that best value has been achieved.</p> <p>A copy of the current Condition Survey is to be attached to the lease.</p>
9.	Rates and Taxes	<p>Responsibility of Town/ Parish Council or other Community Organisation and subject to any concessions that WBC is able to provide.</p>
10.	Cleaning	<p>All aspects of cleaning to be the Town/ Parish Council or other Community Organisation responsibility, including litter / waste bins/waste management.</p>
11.	Improvement and Investment	<p>Town/ Parish Council or other Community Organisation to provide detail of initial improvements and investment committed to generating increased use of the facilities and increased income.</p> <p>Improvements and investment to be delivered within 2 years of the date of the lease following agreement by WBC and Town/ Parish Council or other Community Organisation.</p> <p>WBC not to unreasonably withhold tenants request to improve or alter premises.</p>
12.	New signage	<p>Signage to direct all enquiries to new providers to be put in place within 3 months of the lease completion.</p>
13.	Public Notice and Communication	<p>The Town/ Parish Council or other Community Organisation to take responsibility to inform the local community of the changes to management arrangements and proposed changes to the use of the assets (which will be compliant with planning consents and lease user clauses).</p> <p>The Town/ Parish Council or other Community Organisation is also required to carry out periodic reviews (a minimum of every five years) to ensure activities remain in line with the community's needs and aspirations.</p>

		WBC to provide community engagement and consultation advice as required.
14.	Business Plan/Agreed Proposal	The Town/ Parish Council or other Community Organisation will be required to demonstrate affordability within 5 years, unsupported by WBC.
15.	WBC Service Contracts	The Town/ Parish Council or other Community Organisation will be given the opportunity to benefit from WBC contracts through a framework agreement for maintenance of parks and open spaces, waste etc. and the Condition Survey contracts. There is a possibility that the Town/ Parish Council or other Community Organisation may need to buy into existing contracts until those contracts are reviewed.
16.	Community Service	The Town/ Parish Council or other Community Organisation to support the Community Service Arrangements by participation in providing work for the Community Pay Back Scheme and/or Blue Sky (or future similar service provider) or similar schemes by employing these services where possible, provided that value for money is achieved in accordance with WBC guidance and approvals.