

# BEDFORD BOROUGH COUNCIL COMMUNITY ASSET TRANSFER POLICY 2021

## Introduction

This document sets out Bedford Borough Council's policy and guidance on Community Asset Transfer (CAT) and the approach the Council will take to ensure consistent and transparent asset transfer to the community and voluntary sector (CVS). The Council recognises the contribution that the CVS makes to empowering communities, which is one of the four main priorities set out in the Corporate Plan 2017/21.

This Policy replaces the current Community Asset Transfer Policy, which was last reviewed in 2015 and builds on the experience that the Council has of successfully working with the CVS over many years. **Community Asset Transfer is a separate process to Community Right to Bid.**

A Glossary of terms used in this document or in connection with CAT can be found in Appendix 1.

## National Policy Context

Since the Quirk Report 2007 and the introduction of the Localism Act 2011, there has been a growing interest by both local Councils and the CVS in transferring property assets into community ownership. Councils and central government have recognised that community assets can provide better outcomes, offer better value as well as create greater freedoms for partner organisations to tailor services and draw down external investment.

Under s123 of the Local Government Act 1972, any disposal by the Council of an asset in excess of 7 years (including leasehold interests) must obtain "best consideration"; however this was subsequently amended under the Local Government Act 1972 General Disposal Consent Order (England) 2003, which gave Council's wider powers to dispose of land and property assets at less than market value 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)

## The Council's Strategic priorities for Community Asset Transfer

The [Corporate Plan 2017/21](#) establishes the Council's overarching ambition for Bedford Borough to be 'the place to grow' and sets out four connected and mutually reinforcing goals, which are to:

- Support people
- Enhance places
- Create wealth
- Empower communities.

The Corporate Plan goals drive the priorities set out in the [Council's Corporate Asset Plan 2019/23](#), which include:

- Supporting and empowering local people by providing the right property, in the right place and at the right time. Where appropriate to do so, this includes supporting the transfer of assets under the Community Asset Transfer Policy;
- Providing value for money and securing efficiencies for the future, which involves continuously challenging the use of assets and disposals where appropriate; and
- Working effectively with partners to maximise sharing and deliver opportunities, which might involve supporting our communities and partners (including the CVS) engaged in delivering services on our behalf.

## Benefits of Community Asset Transfer

CAT can deliver a number of benefits, for example:

- **Community empowerment:** Owning an asset can stimulate the involvement of local people in shaping and regenerating their communities, and can be a catalyst for local volunteering and increasing community cohesion; can build confidence and capacity amongst the individuals involved, and can support the creation of community leaders, and inspire others to improve their community.
- **Capacity Building:** Transferring assets to community and voluntary organisations can contribute towards the creation of a strong and financially sustainable CVS that can work in partnership with the Council to achieve its corporate goals.
- **Economic Development and Wealth Creation:** There can be significant indirect and direct benefits for the community in which a transferred Council asset is situated; for example, it can create opportunities for social enterprise and local job creation. Further, CVS organisations often have access to funding not available to the Council that can be used to improve buildings or support training and development initiatives.
- **Improvements to local services and Value for Money:** Under CAT, buildings can become a point for neighbourhood service provision that are more responsive to community needs and enabling facilities that might otherwise close due to Council budget pressures. At the same time transfer can contribute towards efficiency savings (e.g. achieving revenue savings by releasing surplus property), enabling the Council to concentrate on core statutory responsibilities.

To maximise the benefits, the Council must have a clear and transparent approach to how it will address asset transfers to the community.

## **Challenges and Risks associated with Community Asset Transfer**

The Council's policy in relation to CAT must also recognise and address the challenges and risks posed by the transfer of assets to the CVS. These include, for example:

- Loss of control by the Council over community run facilities could mean reduced ability to strategically plan the provision of community facilities across the Borough
- Sustaining the long-term enthusiasm for a group of volunteers to run facilities
- The ability of volunteers to succession plan in the management of community facilities
- Developing trust between the community organisations and the Council
- Sustaining the long-term financial viability of facilities run by volunteers
- Ensuring that organisations have the capacity, which may be higher in more advantaged areas. Some areas and organisations will require capacity community building support
- The capacity of the Council to provide the initial support required in the face of continuing budget pressures. Building and development of volunteers and community organisations takes time and it may be necessary to secure external support from organisations that specialise in this field.
- Ensuring that standards of provision are maintained over time.
- Ensuring that organisations have the facilities management skills to ensure that buildings comply with statutory and regulatory requirements in order to protect staff, volunteers and users.
- Transferring buildings in a state of repair that results in asset rather than liability transfer.
- Ensure that the CVS have experience of property management and funds available/reserved to maintain the property in an acceptable state of repair.
- Potential loss of revenue income, capital receipt or future opportunity cost for the Council.
- The asset transferred will not be used in the public interests or inclusive to the wider community.
- Expectations of the Council and the community organisation may differ.
- Competing applications between different community organisations.
- Lack of control of the future of the asset by the Council and loss of availability to meet its own future requirements

## **Assets within the scope of the CAT Policy**

The CAT Policy applies to land or buildings in Council ownership that have current or future potential community use. Assets suitable for transfer will be identified through the Council's Asset Challenge process, which involves regular review of its property holdings. Where an asset has become surplus to operational requirements or where it is currently run as a community asset and its agreement is due to end, an assessment will be made on the future options in accordance with the Council's Disposals Policy, which will include whether the asset is appropriate for CAT.

As part of the assessment consideration will be given to:

- Retention within the Council (both strategic long term objectives and operational requirements)
- Open market disposal
- Change of use / redevelopment
- Potential for CAT

If a CAT potential is identified, further consideration will be given to the investment required and how this can be funded so as not to impose unreasonable liabilities on the CVS organisation or the Council. The Council may use CAT as a route to continue a community-based service where the community have expressed an interest in running a service.

The Council will also consider speculative proposals from CVS organisations, but each case will be considered on its merits; however, there are a number of assets which will not be considered as a CAT, these include land or buildings:

- Within the Council's Commercial Estate (e.g. industrial, retail and office space) or other assets held for income generating purposes;
- Earmarked for capital receipt / disposal or where the market value or development value is greater than its existing use value at the time of application. This applies to assets on their own or where they form part of an amalgamated site;
- Required for the delivery of essential services;
- Retained for legal, contractual or other reasons;
- Held for strategic reasons e.g. regeneration, redevelopment or meeting future service needs.
- That are not fit for purpose and/or require significant investment. Exceptions may be made where the community organisations can secure the financial resources available to bring the property back into a state of repair.

## **Key Principles Underlying CAT**

The Council's policy on CAT is underpinned by the following principles:

- The Council will proactively work to identify properties suitable for CAT through its Asset Challenge process;
- Any proposed asset transfer must promote social, economic or environmental wellbeing and support the vision, values and goals of the Council;
- The Council has a dual role to support the CVS but also to act as a steward of publicly owned assets;
- The Council will adopt a transparent corporate process for CAT which will include a clear point of first contact and clear stages and timescales for each party;
- Requests for transfers from the community will be considered using the criteria set out in this Policy.

- Any known costs or liabilities involved e.g. ground rent, sitting tenants, maintenance, essential repairs etc. will be made available as part of the CAT process
- The Council will not guarantee exclusivity on a first come first served basis when considering asset transfer and will consider other expressions of interest, as appropriate, in relation to any proposed asset transfer in order to gain maximum benefit for the local community;
- Any disposal at less than best consideration will require the benefits to be clearly identified and how these will be monitored and measured. These will be incorporated into a Service Level Agreement.
- Relevant Portfolio Holders and Ward Members will be consulted regarding each proposal.
- Each asset transfer will be considered on its own merits
- Organisations will be provided with access to appropriate support in terms of a 'tool kit' and third party advice from an organisation with appropriate experience in capacity building.

## **Eligibility Criteria**

To be eligible for CAT the applicant must be a CVS organisation (including Parish and Town Council) which can demonstrate that they are or will be:

- Properly constituted with strong and open governance arrangements, for example a registered charity, a community interest company or a charitable incorporated organisation, a not for profit company or co-operative.
- In a position to hold property and have well defined community benefit objectives with a clear vision for the future use of the building or land
- Able to demonstrate that it has the skills and capacity within, or available to its managing body, to effectively deliver the proposed services and manage the asset.
- Able to demonstrate good governance by operating through open and accountable co-operative processes, with adequate monitoring, evaluation and financial management systems.
- Non-profit making and exist for community/ social/ environmental/ economic benefit, whilst recognising that they may have a business element to how they operate, such as a community café. However, this type of business and financial gain will not be the main driver and it will not distribute any financial surplus to owners or members but apply it to serving its core community aims and objectives.
- Open to and able to demonstrate an inclusive approach to the wider community that embraces diversity, works to improve cohesion and reduce inequalities
- Able to demonstrate sustainability, for example, through income generation, social enterprise and the hiring of space and facilities.

## Basis of transfer

The Council will give careful consideration to the terms on which an asset is transferred as part of the CAT application process. In most cases the Council will offer a lease transfer. This will be dependent on a number of factors including the use and condition of the asset, capacity to manage and raise funds and the outcomes to be achieved.

The following table provides a guide to the length of terms that the Council may apply:

|             |  |
|-------------|--|
| Short term  | Management Agreement or Licence to occupy granted for no longer than 2 years or a lease of up to 6 years.  |
| Medium term | Lease of between 7 and 24 years  |
| Long term   | Lease of between 25 and 40 years. Longer terms up to a maximum of 125 years may be considered in exceptional circumstances, for example, where this is required as a condition of funding. |

In some instances, it may be appropriate to grant a short-term lease with a view to granting a longer term to allow the voluntary and community sector organisation to, for example, explore options for the management and refurbishment of the building.

In all cases, the tenant will be required to enter into a Service Level Agreement including terms that ensure the asset is managed properly and is returned if the terms of the agreement are not met or the organisation lacks a proper governance arrangement, is dissolved, becomes insolvent or due to any other defined circumstances. The Service Level Agreement will set out the agreed outcomes for the approved use of the asset. The tenant will be required to provide an annual report to the Council which will demonstrate how they have complied with the conditions of the agreement

The Council will determine licence fees or rent payments on a case-by-case basis, for example; an organisation that has a substantial commercial use of a building that generates large profits in excess of the running costs would be expected to make some payment whereas a small Community and Voluntary Sector group managing a small property may be asked to contribute a smaller proportion. However, the Council will expect Community and Voluntary Sector groups to be responsible for all running costs of the building, including repairs, maintenance and all insurance. Any transfer at below market value will need to comply with State Aid Rules.

Sample heads of terms are attached at Appendix 2.

## The CAT Process

### Stage One – Asset identified for CAT

The process will be triggered through one of two routes:

1. The land or building is identified as being surplus and suitable for CAT through the Council's Asset Challenge Process; or
2. A speculative approach is made by an organisation in which case the Council will assess whether the land or building is suitable for CAT.

### Stage 2 – Expressions of interest

Once identified, the CAT opportunity will be advertised on the [Council's website](#) and [Bedford News](#). Organisations will be invited to submit expressions of interest by completing the expressions of interest form, which will enable officers to assess the eligibility of the organisation and their proposal. Officers may ask for meetings with organisations to clarify points within the submitted form

### Stage 3 – Submission of detailed proposal and business plan

Eligible organisations that satisfy the criteria set out above will be invited to submit a more detailed application and business plan to support their proposal. Organisations will be provided with an information pack which provides information relating to the property e.g. a copy of the most recent condition survey, running costs for the buildings, any legal restrictions relating to the building. Organisations will be encouraged to use the template provided in Appendix 4 and a Toolkit providing further information on what needs to be considered in each section is provided in Appendix 5.

The key sections to be covered in the application and business plan:

- Information relating to the organisation including:
  - Legal status
  - Aims and objectives
  - Governance structure
  - Skills of the committee/board members
  - Key policies e.g. health and safety, equal opportunities, safeguarding
- Plans for the building/land:
  - Details of how the building/land will be used and what services/activities will be delivered from it
  - Professional advice obtained to support proposals
  - Evidence that the organisation has the capacity to hold and manage the property
  - Arrangements for meeting statutory, legal and regulatory associated with holding the asset
  - Outline heads of terms e.g. rent, length of lease, any break clauses.
- Community engagement
  - Community needs assessment
  - Details of services to be delivered/needs to be met and evidence that these will not duplicate current provision
  - Key benefits and outputs to be delivered by the proposal

- Details of how the proposal will the Council's goals.
- Inclusion and diversity:
  - How the asset will be accessible to all sections of the community
  - How the community will be involved in the delivery of the project
  - How the use of the proposals for the land and building will encourage community cohesion
  - The contribution the proposal will make to community safety.
- Financial Information:
  - Completed Finance Template (Appendix 6) covering projections for 5 years
  - Accounts and annual reports for the previous 3 years to demonstrate the organisation's current financial position;
  - Financial assumptions relating to income and expenditure
  - Details and evidence of any sources of finance asset transfer will release or attract
- Managing people:
  - Information regarding staff currently or to be employed
  - Plans for recruiting and involving volunteers
  - Confirmation that the organisation has all appropriate HR policies in place.
- Sustainability of the proposal and planning for the future
  - Plans to improve/modify the property and how these will be delivered
  - The medium/longer terms for the project e.g. working in partnership with other partners and how it will develop services
  - The completed Risk Assessment Template (Appendix 7)
  - Proposals for monitoring and evaluating outputs from proposal

#### **Stage Four – Evaluation of proposals**

All business cases will be reviewed by a panel of council officers with relevant professional expertise and experience. Applications will be assessed using the Appraisal Template (Appendix 8)

Each organisation will be invited to discuss their application with representatives of the officer panel in order to seek clarification and additional information/evidence in support of the organisation's proposal. In certain circumstances the Council and its partners may ask a number of organisations to explore a collaborative bid for the asset.

#### **Stage Five – Member consultation and recommendation to Mayor**

Once a preferred bidder has been selected, officers will consult relevant Portfolio Holders and Ward Members prior submitting and a formal Executive report to the Mayor for approval.

#### **Stage Six – Completion of lease and Service Level Agreement**

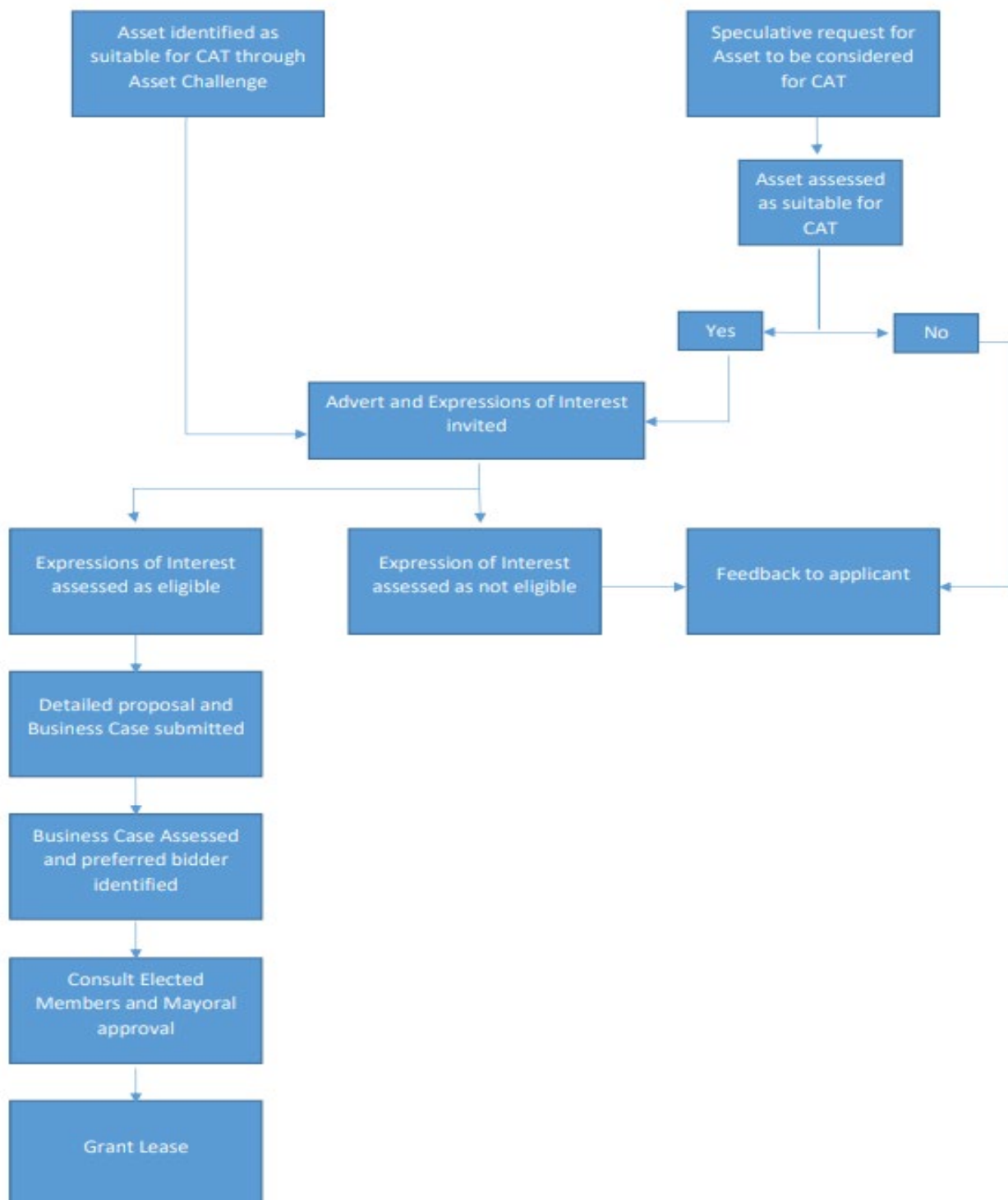
The final stage will be the practical implementation and legal steps required in the CAT process. At this point, the Asset and Estates Management Team will work with



the successful organisation to determine the full content of the lease. Organisations will be encouraged to seek legal advice to support them through this stage. When both parties are happy with the lease and this has been formally completed, the Council will ensure the building is ready to be transferred and the organisation will be given the keys to the building.

Organisations granted leases under the CAT Policy will be eligible to subscribe to the Maintenance Buy-Back Scheme that is made available to schools.

The overall CAT process is summarised in the diagram below.



## **Monitoring**

All Community Asset Transfers will include a Service Level Agreement which sets out the agreed outcomes and evaluation on the use of the building or land. The organisation will be expected to provide an annual report in line with the agreed arrangements as well as providing evidence that its governance arrangements have not changed without approval and are fit for purpose. These may include usage statistics, service evaluations, or other key indicators which will be clearly laid out in the Service Level Agreement.

Organisations will also have to provide evidence when requested to do so by the Council to demonstrate that they are complying with the statutory obligations and any other conditions of acquiring the lease. Failure to comply with any of part of the lease or the Service Level Agreement could result in the Council determining (ending) the lease and the organisation having to hand the asset back to the Council.