

Bury Council Community Asset Transfer Policy

Contents

- 1.0** Purpose of community asset transfer
- 2.0** The local context
- 3.0** Summary of key matters
- 4.0** Assessing applications for community asset transfer
- 5.0** Basis of Property Asset Transfer
- 6.0** Community Asset Transfer Process

Annex 1 Expression of Interest Questionnaire

Prepared 6th July 2017

1.0 BACKGROUND

- 1.1 This Policy, agreed by Bury Council Cabinet on the 26TH July 2017, provides a structure to objectively consider transfers of Council owned property assets to the community to support continued delivery of services.
- 1.2 A Community Asset Transfer is at the discretion of the Council. It is not the same as a community organisations right to nominate assets for inclusion in the Councils register of Assets of Community Value that is a statutory mechanism for providing protection from development.
- 1.3 The key aims of the policy are to:
 - Support voluntary and community organisation contributions to Bury neighbourhoods
 - Provide a fair and transparent framework to consider requests for community asset transfer of Council owned property assets (land and buildings).
 - Help the Council to achieve savings in its costs; and to
 - Support continued delivery of services through transfer to voluntary and community organisations, where this is appropriate.

2.0 THE LOCAL CONTEXT

- 2.1 Bury Council recognises the positive contributions that voluntary and community groups make to their neighbourhoods. The purpose of this policy is to facilitate and support communities to access Council property for this purpose while protecting the Council's financial integrity, fiduciary duty and wider accountabilities, such as Health and Safety.
- 2.2 Community Asset transfer provides an option for property assets and services challenged as a result of cuts to funding.
- 2.3 Bury Council has committed itself to engage with communities through Neighbourhood working to improve the environment, promote early intervention and prevention and promote self care. Putting in place a Community Asset Transfer Policy is an active management step by Bury Council to support local people to reduce their reliance on public funding.
- 2.4 Community Asset Transfer can range from unrestricted freehold sale at full market value, where the Community group is offered first refusal, rather than to offer for sale on the open market, through to short term leases where the Council retains liabilities, responsibilities and costs.
- 2.5 Community asset transfer involves a sale or lease of Council, or other publicly owned property assets, potentially at less than full market value in exchange for and as a means for the community to achieve local social, economic and / or environmental objectives.
- 2.6 The Council is under no obligation to transfer assets to Community organisations.

3.0 SUMMARY OF KEY MATTERS

- 3.1 Community Asset Transfer can be used as a facilitator of social, environmental and community regeneration.
- 3.2 The transfer of assets to voluntary and community organisations' can help to strengthen confidence and ties with neighbourhoods and can sometimes enable new investment to be attracted.
- 3.3 A Community Asset transfer policy endorses and provides a structure to consider the potential continuation of services or activities, through transfer to a community organisation that would otherwise be at risk due to financial pressures, e.g. by lowering ongoing staffing, building maintenance and other related costs to the Council.
- 3.4 Community Asset Transfer has potential to give communities greater control, influence and input into their areas. It can help to build a sense of belonging, raise aspirations, increase skills and expertise and facilitate delivery of services.
- 3.5 A Community Asset Transfer Policy is complimentary to Bury Council's aspirations and plans for its localities and neighbourhoods.
- 3.6 Community Asset Transfer is not a 'property only' matter. It is an important approach to long term community support for the priorities of the Borough.
- 3.7 Bury Council already has a track record of supporting Communities when and how it can as well as a good track record of promoting self management of sports and allotment facilities (that do not transfer a property interest). A Community Asset Policy will serve to inform and guide the Councils support through its management of property assets.
- 3.8 This Community Asset transfer policy is intended as a guide for objectively considering applications, case by case, according to their own merits.

4.0 ASSESSING APPLICATIONS FOR COMMUNITY ASSET TRANSFER

- 4.1 An option to consider transfer of a property asset to the Community can be prompted either by the Council identifying a property asset that it decides is surplus to its needs and it offers for Community Asset Transfer or by a Community or voluntary organisation approach to the Council.
- 4.2 The long term viability and benefits of each proposal for Community Asset Transfer will be evaluated against options available for the Council, e.g. disposal by open market sale, commercial lease or alternative Council use.
- 4.3 The purpose of the policy is not to generate capital receipts, rather to recognise and support the contribution that community and voluntary organisations bring to neighbourhoods demonstrated as a business case.
- 4.4 The business case for an asset transfer must be demonstrated by the applicant to the satisfaction of the Strategic Leadership Team and Cabinet of the Council in monetary and sustainability terms.
- 4.5 Whoever makes the first approach, the applicant for Community Asset Transfer will be responsible for making the case. The Council will assist where it can and use its best endeavours to take a fair, consistent and transparent approach to considering the case and responding.

Templates for a community organisation application, objective tests and a template for business case are included as an annex to this policy.

- 4.6 Objective tests of 'the organisation', 'the property' and of 'value for money' will be considered in advance of a Community Asset Transfer.

5.0 OBJECTIVE TESTS FOR COMMUNITY ASSET TRANSFER

5.1 Community Asset Transfer is at the discretion of the Council. To help it to consider an application objective 'tests' have been agreed. The tests are summarised as follows:

5.2 **The Organisation Test:** (to be demonstrated by the applicant)

- i. It is a legally constituted community group, charity, or not for profit organisation, with articles of association that define roles and responsibilities of company directors, trustees etc.
- ii. It understands and is willing and able to take legal responsibility of the property asset transferred, e.g. health and safety, running costs, maintenance and improvement plans.
- iii. It has identified risks (including health and safety) and has agreed and put in place mitigating actions.
- iv. It has understanding of costs, financial standing and an identified and adequate budget to meet its roles and responsibilities.
- v. There is sufficient alignment between the applicant and the Council's objectives and plans.
- vi. It has defined and working governance arrangements.
- vii. Its funding sources are reliable. It demonstrates a track record, where considered to be a prerequisite, or a satisfactorily strong case of competence where a track record does not already exist.
- viii. It has, or has access to, appropriate skills and capacity to safely deliver the services and to manage the property in the long term.
- ix. It has a service level agreement with the Council, where appropriate.

5.3 **The Property Test:**

- i. There is no foreseeable Council need for the property and it has been declared surplus as a result.
- ii. There are no legal or property title impediments to the transfer.
- iii. Property value determined by the Council's Property and Asset Management Service for consideration in the Value for Money test.

5.4 **The Value for Money Test:**

- i. If the property and organisation tests are passed, the applicant will be requested to submit a business case setting out further details about its proposal. This should include a financial forecast and a risk register.
- ii. If the property asset transfer is to be at less than best consideration, the community organisation must demonstrate objectively the benefit or value of their proposals in monetary terms, e.g. achievement, promotion or improvement of the economic, social or environmental wellbeing of the whole or any part of the area or direct savings such as protecting the value of Council assets in the long term.
- iii. Under EU law, governments and public bodies may not distort competition through their provision of state aid that puts commercial enterprises at a disadvantage. Applications for Community Asset transfers must be able to stand scrutiny of any question of State Aid.

- iv. The Council is under no obligation to transfer property assets to the community and decision are taken with knowledge of alternative options.

6.0 BASIS OF THE PROPERTY ASSET TRANSFER

6.1 The basis of community asset transfer will be consistent with individual circumstances of the application taking into account levels of transferred risk, cost retained or passed on and agreed outcomes. This will include:

- i. Property interest to be transferred, this can range from;
 - a. Short term lease, e.g. 5 years (with or without security of tenure).
 - b. Short term followed by a further or a series of short term leases.
 - c. Short term followed by longer term leases with mutual break clauses.
 - d. Longer term lease, e.g. 6 to 99 years – with mutual break clauses.
 - e. Lease or leases followed by transfer of the freehold.
 - f. Freehold.Self management agreements may also be considered but they do not constitute as asset transfer and are more aligned to a service contract.
- ii. Subletting

Sub letting of assets to commercial organisations may be acceptable if the income generated is key to long term sustainability of the community asset transfer. However, use would be subject to prior approval of the Council under terms of the transfer by way of a lease.
- iii. Use Restriction and claw back

Controls on use to be considered and determined based on the business case and any discount allowed at the time of the asset transfer. This is to ensure private 'profit' is not generated from the transfer.
- iv. Indemnities on transfer

Where rights and responsibilities are passed to the community organisation, risks to be identified and mitigations put in place, including risks of organisations failing to fulfil responsibilities. Groups may be required to take out and maintain suitable indemnity insurance.
- v. Other Material considerations for asset transfer
 - Parties to the transaction
 - Price / consideration
 - Treatment of costs (legal and asset management, administration, consents and variations etc).
 - Responsibilities for repair and maintenance (the transfer will ideally include a schedule of condition).
 - Responsibilities for health and safety and insurance.
 - Agreement and accountability for uses and outcomes (probably documented in a service level agreement).
- vi. Legal transfer and documentation

Occupation of and rights to the property asset will not be possible before the transfer by way of lease or sale has been completed.
- vii. Ongoing Management

Where Asset Transfer is agreed based on a business case that commits to agreed 'outcomes' monitoring and enforcement arrangements to be put in place.

7.0 COMMUNITY ASSET TRANSFER PROCESS

7.1 This policy for Community Asset Transfer will be provided to interested groups when community interest is to be considered as an alternative to service closure or outright open market sale. Consideration of business case and period allowed for completion will be time bound.

7.2 Process for Community Asset Transfer

- i) Applications for Community Asset transfer to be directed first to the Asset Management Team within the Department for Resource and Regulations Department.
- ii) At the time that the Council invites interest or on receipt of an approach by a community organisation the time periods for considering the application to be agreed.
- ii) Where the community interest aligns with the objectives of a particular Council service objective, representatives of that service will be asked to work with the community organisation to identify and develop the business case.
- iii) Where agreed as appropriate a departmental Council service will work with the Community organisation after the Property asset transfer.
- iv) Applications for Community Asset Transfer, along with business case will be considered by a panel comprising representatives of the property and asset management, legal, finance and services that align with community group plans.
- v) The normal route for decisions will be through a Delegated Powers decision notice to be agreed by the Leader of the Council, the relevant portfolio holder, the Chief Executive, Executive Director of Resource and Regulation and the Head of Property and Asset Management.
- vi) Community Asst Transfer will be recorded as a property transaction and along with any agreed responsibilities for long term monitoring.

8.0 POST TRANSFER ACTIONS

- 8.1 Every transfer will be subject to review, generally annually, to measure success. It will review the sustainability of the transfer and check if the terms of the transfer, including the service level agreement (where agreed as part of the transfer) is being fulfilled.

Contact Details:-

Clinton Judge

Corporate Asset Manager

Tel: 0161 253 5308

Email: c.judge@bury.gov.uk

Bury Council Community Asset Transfer

EXPRESSION OF INTEREST QUESTIONNAIRE

Please provide the name and address of the property asset of interest:

Building / site name:

Address:

Postcode:

Organisation submitting the application:

Organisation name:

Is your organisation a branch or part of a larger organisation?

Yes

No

If yes, please provide details:

Organisation name:

Address:

Postcode:

Who is the main contact for this application?

Title:

Name:

Position in organisation:

Postal address:

Address:

Postcode:

e-mail address:

Telephone and mobile phone numbers:

Bury Council has agreed its policy for Community Asset Transfer based on satisfying key tests of 'the organisation' the 'property' and 'Value for Money'. Applicants for Community Asset Transfer are asked to provide responses to help with consideration of the tests.

I confirm that I and the organisation's Managing Group have read the Community Asset Transfer Policy and understand the responsibilities and duties of our organisation.

Yes No

Does your organisation have a governing document (Constitution, Articles and Memorandum of Understanding, etc)?

Yes (please attach a copy with your application) No

Does your organisation hold an Annual General Meeting (AGM) or similar governance meeting?

Yes No

If yes, please provide the date of the last meeting:

Date	Month	Year

Does your organisation produce annual reports or returns for Companies House, the Charity Commission or other governing bodies?

Yes (Please attach a copy with your application) No

Please give details of your organisations management structure; how it is managed – please provide names, roles and responsibilities (if you have an organisation structure diagram please attach a copy with your application):

Does your organisation employ staff or is it run by volunteers?

Employs staff (Please provide details of your staffing structure)

Run by volunteers

Please confirm the overall numbers of people involved with running your organisation / delivering its activities:

Please confirm how many people currently use your organisations services / activities (this should be clients / users not number of visitors):

Has your organisation got an audited or independently checked set of accounts for the last financial year?

Yes (Please attach a copy with your application) No

Does your organisation have a bank account in its own name for which it receives bank statements?

Yes (Please attach a copy of the latest) No

Does your organisation currently own or have a lease on an asset; or has it previously owned or had a lease on an asset?

Yes (Please give details below) No

One of the responsibilities attached to managing an asset is ensuring you have the right insurance cover in place. Does your organisation currently have any insurance policies in place?

Yes No

Has your organisation ever been refused insurance cover?

Yes (Please provide details of when and why) No

As part of Bury Councils Community Asset Transfer application process if the property and organisation tests set out are satisfied, the applicant will be required to submit a business case setting out further details about its proposals. This will be used to help with satisfying the value for money test.

Key considerations of the business case are set out. Preparation and consideration of the business case as well as period allowed for completion of the Community Asset Transfer will be time bound.

How long will you need for preparation of the business case?

(see Business Case Guidance below)

Undertaking

I certify that the information supplied in this Application Form is accurate to the best of my knowledge and that I am authorised by the governing body of the organisation to submit this Application Form on its behalf (please supply a copy of the minute or minutes from the managing body meeting where this authority was granted or a letter confirming this).

I understand it is a criminal offence to knowingly make a false statement, to give or offer any gift or consideration whatsoever as an inducement or reward to any Council Officer, partner or representative and that any such action will empower the Council to cancel this application for the transfer of the asset.

Signed:

Print Name:

Position within the organisation:

Date:

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Application to be returned to:

Bury Council
Property and Asset Management Service
3 Knowsley Place
Duke Street
Bury BL9 0EJ

FAO Clinton Judge, Corporate Asst Manager
Tel: 0161 253 5308
Email: c.judge@bury.gov.uk

Business Case Guidance

The Business Case needs to be a concise but robust document and as a minimum it will cover / contain the following key areas:

- A cash flow forecast and budget detailing financial viability and sustainability of your organisation. To demonstrate ability to manage the asset and any resulting costs.
- Risk register and mitigations to include financial, statutory and health and safety considerations.
- Where the property asset is to be transferred at less than best consideration (as assessed by the Councils Valuation Officer) the benefit or value of the proposals to be demonstrated in monetary terms, e.g. achievement, promotion or improvement or the economic, social or environmental wellbeing of the whole or any part of the area or direct savings such as protecting the value of Council assets the long term.
- A statement of the aims and objectives of the organisation.
- Description of the organisations client / users, i.e. its target group.
- An executive summary of why the proposed asset is needed, i.e. what difference it will make.
- Details of what activities, services, events and uses the asset will be required for, and how they will be delivered: please identify any new / additional activities / services that will be delivered.
- Which Council objectives will be delivered against and outcomes as a result of the Community Asset Transfer?
- A community need statement outlining the community need and any community benefits from managing the asset – the how, who, how many and how measured. Including details of stakeholders and evidence of community involvement and consultation.
- What improvements, both physical and cosmetic will be made to the asset – including indicative costs and how paid for?
- The capacity of the Community organisation to manage the asset:
 - Expertise and skills of the Board / Managing Group.

- Experience / history of the organisation in managing assets and delivering activities, services, managing health and safety requirements and projects.
- Arrangements for ongoing business planning.
- Arrangements to be put in place to ensure effective management of the asset and compliance with relevant statutory regulation.
- Succession Planning – how your organisation will replace people on its Board / Managing Group over time to ensure the right skills and knowledge is maintained.