



## **Policy Paper**

# **Essex County Council Community Asset Transfer**

### **1. What is Community Asset Transfer?**

Community Asset Transfer (CAT) is the transfer of ownership or management of land or buildings ('assets') from the Council to a local community group or third sector organisation ('Group'). CAT is often undertaken at low or no cost of transfer, or with preferential rates or terms. It is usually carried out on a leasehold basis. The local authority acts as the owner of last resort, with the length of the lease dependant on the Group, situation and asset.

Essex County Council (ECC) recognises the potential benefits of CAT for the local community and is committed to pursue CAT. This document sets out the general terms by which ECC intends to pursue its CAT policy. Together with the supporting documents it is intended as a support and guide for both interested Groups and relevant Council staff.

The *Quirk Review* of 2007 recommended that local authorities consider CAT as a viable option for achieving a range of local benefits. CAT has since been utilised by a number of local authorities and the potential benefits of CAT include:

- Improved public services, including the restoration of unused buildings, or services better targeted to the local community
- Greater access for all to services and facilities that respond to community needs
- Increased local employment
- Direct community revenue/profit
- Improved skills within the community e.g. project planning, practical renovation, partnership working and more
- Increased community group presence, prestige or capacity
- Greater community group security, independence, empowerment and financial sustainability – and associated ability to apply for external funding and loans
- More effective partnership working between the Council and the third sector.

As the *Quirk Review* concluded, 'optimising the use of public assets is not the primary objective [of CAT]: the over-riding goal is community empowerment'.<sup>i</sup> ECC recognises the opportunity through CAT to empower the area's third sector and strengthen the wider community in line with the Council's strategic aims and minimising its future financial liability. This document sets out a clear and consistent path for all parties involved.

### **2. ECC Community Asset Transfer Policy**

ECC will transfer selected assets to interested community groups where this will bring benefits to the Group and the community at large in line with the Council's strategic objectives. This will give community groups the opportunity to manage cherished assets in the best interests of their local community while empowering the area's vital third sector.



Any queries relating to the Council's CAT policy should in the first instance refer to the FAQs in the 'Important Considerations for Groups Considering CAT' document.

It is important that Groups are clear from the outset as to the expectations and requirements under which CAT may take place, and the processes and commitments for which they are responsible. The core principles of ECC's CAT policy are as follows:

- The asset is not required for ECC's operational purposes or for the delivery of another ECC strategy (such as the property transformation agenda), and is declared as surplus
- The asset has a value of less than £50,000 (current use value)
- Assets are defined as either land or buildings.
- Assets with a current use value of over £50,000 (and where all further eligibility criteria are met) would be eligible for ECC's Assisted Purchase Scheme, whereby a Group may purchase the asset at market value subject to a discount of 25% to a maximum of £80,000. In this event the Deputy Leader and Cabinet Member for Finance and Transformation retain the right to exercise discretion over the nature of the asset disposal, taking into account the type of asset, its potential for community use and the social and economic context. For full details of the ECC's Assisted Purchase Scheme please contact Dr Thomas Nutt at [tom.nutt@essex.gov.uk](mailto:tom.nutt@essex.gov.uk)
- A clear business case is provided by the Group (see Section 5)
- For groups other than Parish Councils and large charities (see Section 3) the asset will be transferred on a leasehold basis (see Section 4 for further information on leasehold & freehold arrangements for relevant Groups)
- No dowry will be provided to the Group by ECC nor improvements made to the asset prior to transfer
- The Group would meet their own and ECC's reasonable legal and surveying costs
- No ongoing support would be provided by ECC, but this would not restrict the Group from applying for any funding or commissioning opportunities that may emerge.

ECC will review its CAT policy every three years.

ECC's CAT policy provides the basis for community groups to bid for and manage selected assets. Community Groups may wish to identify assets that they think will be suitable for transfer.

**Before producing a business case – Community groups should contact Essex County Council to see whether an asset would be suitable for transfer.**

However, Essex County Council may also place assets that they think are suitable for transfer on a publicly available list that community groups can check. Placing an asset on the list of those available for transfer by ECC provides notice of ECC's nomination of that asset as having community value under the Localism Act 2011.<sup>ii</sup> By placing an asset on the list ECC provides



notice of its decision to dispose of the asset, and goes a step further than the provisions of the Localism Act by pre-emptively offering Groups the opportunity to transfer the asset, rather than simply offering the right to make a bid.

An asset will be listed for a minimum of six months which for the purpose of the Localism Act 2011 represents an extended interim moratorium period for local groups to register an interest in an asset. Once a group submits an expression of interest in an asset in the form of a high level business case (see Section 5) it will have a further six month period to submit a full business case. This forms the full moratorium period under the Localism Act. ECC retains the right to extend this period at its own discretion. Further details relating to the relevant provisions of the Localism Act as they relate to this CAT policy can be found in the Frequently Asked Questions.

### **3. Which Groups are Eligible to Acquire Assets under CAT?**

To be eligible for the transfer of assets under CAT, ECC sets out the following eligibility criteria for an interested Group, with flexibility depending on its business case (see Section 5):

- Must have charitable status and be a registered company, or hold an appropriate alternative legal status on which ECC may reserve judgement e.g. Charitable Incorporated Organisation (CIO; when this status is made available by Regulation); Community Interest Company (CIC); co-operative or community benefit Industrial & Provident Society etc.

OR

Be a Parish/Town Council or 'large charity' (defined as UK-based charities, registered with the Charities Commission and with a turnover of more than £1m p.a.)

- In exceptional circumstances private organisations may be considered if they present a demonstrable case for benefitting the local community and/or environment
- May be of any size and membership number
- Should generate demonstrable social, economic and/or environmental benefits for the local community. It should be community-led or clearly show how its governance structure ensures strong links and/or influence by the community
- Should encourage diversity and work to improve community cohesion and reduce inequalities.
- Have robust systems, governance and policies, as evidenced by meeting all the basic requirements listed in the 'pre-VISIBLE' quality standard developed by Community Matters,<sup>iii</sup> or an equivalent, nationally recognised standard or quality mark
- Be of sufficient financial standing and have demonstrable capacity to manage the asset, including members with relevant experience and skill (see Section 5)
- Contribute to the Council's corporate and strategic objectives.



#### **4. Terms on Which Properties Would Be Transferred**

ECC has two broad definitions of community group to distinguish between the types of transfer available:

- Parish/Town Councils or 'large charities' (see Section 3) – for these Groups, ECC will encourage the transfer of the Freehold of the selected asset, given satisfactory review of the business case and published accounts. In the case of Freehold transfer a clawback of 75% of the net sale price would apply in the event of redevelopment
- Other charities and community groups/associations (as prescribed in Section 3 and with a turnover of less than £1m p.a.) – for these Groups, ECC will grant a Leasehold interest of up to 999 years though in many cases leases are expected to be significantly shorter. ECC has published its standard terms for transfer of assets under CAT on a Leasehold basis.

In each case of transfer, ECC will carefully consider the Group's business case (see Section 5) and take into account the needs and capabilities of the Group, the type and condition of the asset, and any further or future requirements or scenarios related to the asset. Where possible ECC will be flexible in designing lease clauses for scenarios such as sub-letting or future restructuring, but remains clear that it will not provide initial nor ongoing financial and/or maintenance support. In certain circumstances ECC may also require a Service Level Agreement on certain assets however this will be assessed on a case by case basis.

#### **5. How to Express an Interest in CAT**

ECC will actively advertise assets to the voluntary sector by posting and regularly maintaining a list of transferrable assets on the Council website. Six-monthly updates on the list will be sent by ECC to the relevant district-based Council for Voluntary Service and/or local Borough, Parish or Town Council asking if they, or associated Groups in their area, may wish to express an interest. In the case of Groups not directly linked to or associated with these bodies, it will be necessary for the Group to approach relevant district-based Council for Voluntary Service and/or local Borough, Parish or Town Council for information and to forge a communication link. Such a link will ensure that all future notices of listed assets are made known to the Group.

##### **Expression of Interest and high-level business case**

When a Group wishes to express its interest in a CAT, it should submit an Expression of Interest including a high-level business case. This should include:

- **The Group's status** (type of organisation, status and details of legal entity, governance structure, financial headlines/assumptions, brief history and experience or summary of values)
- **How the use of the property** will meet the aspirations sets out in the Quirk review
- **The nature of the Group's interest** and its intention (usage and activities) for the asset in question



- **A clear case for how this intention will benefit the local community and/or environment, and how public access to the asset will be maintained.** For the purposes of this policy, 'public benefit' is defined as any use where the primary purpose is to provide a facility of benefit to the general public and to the population of the immediate area in particular
- **Details of the Group's capacity and capabilities for managing the asset** – including a list of key members and any key skills, qualifications and experience relevant to the asset's management (e.g. related to project planning/management, renovation work, social work, accountancy etc.) and clear evidence of good governance, robust financial systems in line with VISIBLE standards
- **A proposed leasehold arrangement** (i.e. length of leasehold and any requirements proposed in advance, recognising that ECC will not provide any dowry or asset improvements prior to transfer)
- **Evidence of any other support gained or sought from external agencies.**

ECC will respond to the Expression of Interest and high-level business case setting out whether or not it considers them to be acceptable.

Where the high-level case is accepted by ECC, the Group will be asked to submit the following further details as a *full* business case:

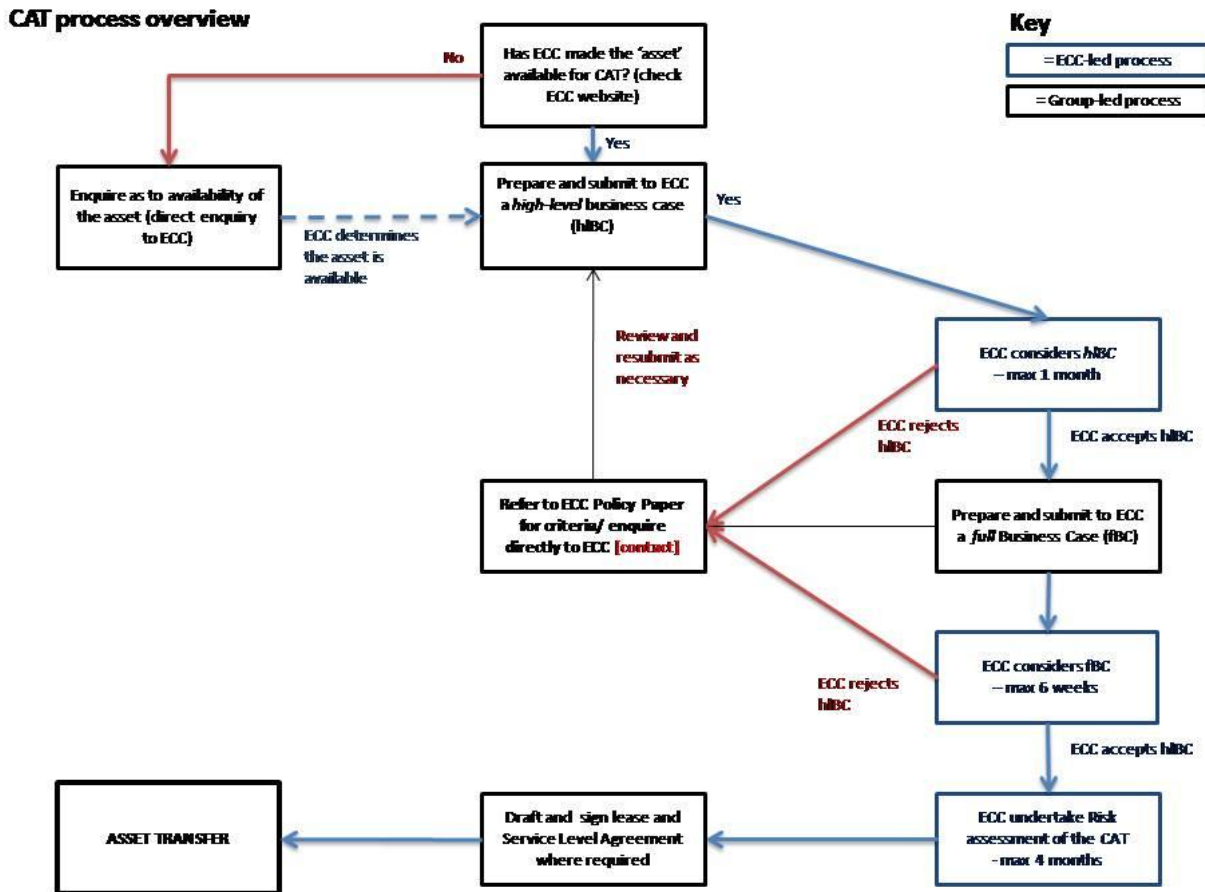
- **Any clarifications on the high-level business case**
- **Detailed evidence that the CAT is financially sustainable** over the proposed leasehold/freehold arrangement and how ECC will not incur future financial liabilities, e.g. cash flow forecasts, projected utilisation rates, details of financial support gained, pledged or expected, full details of all Group members' experience and skills
- **Health and safety considerations** of renovation, maintenance and ongoing management, and how the Group is qualified to ensure these are met
- **A usage plan** demonstrating how the asset will be managed and operated on a day-to-day basis
- **A robust risk assessment** of the asset and details of any alternative arrangements should the CAT prove unmanageable or unsustainable.

Figure 1 presents a simple flow diagram of the process by which Groups may engage with the Council in CAT. It is expected that each CAT process will follow its own set of circumstances and partnerships, so the Council is prepared to be flexible to individual needs.





Figure 1: CAT Process Overview



## 6. How and When a Decision Will be Taken on an Application for CAT

Once the Expression of Interest and high-level business case is submitted by a Group (see Section 5 for details of each stage), ECC commits to the following timescales for each stage of the application process, subject to variation:

- The ward members at a Parish (where they exist), District and County level will be informed of the application and asked to comment.
- Assessment of the Group's *high-level* Business Case – max 1 month
- Assessment of the Group's *full* Business Case – max 6 weeks (The Group will be notified if documents are missing. Copies of paperwork will be sent to a number of areas of the Council for checking, such as to legal services and finance. As soon as any comments are received these are passed on to the Group for necessary action or comment)
- Risk assessment of the CAT to ensure viability, sustainability and community benefits – max 4 months
- Transfer of the asset, including close partnership working to agree plans, terms and legal and contractual commitments – max 6 months



Due to the unique and variable nature of the CAT process, ECC is unable to guarantee that these timescales will always be kept, and regular reviews will be undertaken of the process and timescales.

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<sup>i</sup> HMG, 2007. Making Assets Work: The Quirk Review of community management and ownership of public assets. Available at <http://www.communities.gov.uk/publications/communities/makingassetswork>

<sup>ii</sup> Further information on the relevant provisions of the Localism act 2011 can be found in the Frequently Asked Questions document. The Localism Act 2011 can be found in full at the following address - <http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>

<sup>iii</sup> Community Matters' VISIBLE standards - <http://www.visiblecommunities.org.uk/>