

Cabinet	FP/884/07/12
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Community Asset Transfer Policy

Report by the Deputy Leader and Cabinet Member for Finance and Transformation programme

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Purpose of report

Community Asset Transfer (CAT) is the process by which smaller parcels of land and assets held by Essex County Council (ECC) are transferred to local community groups. This has the advantage of empowering the community (in line with the Government's Localism agenda) and also in reducing the on-going maintenance costs to the Authority where there is limited medium or longer term use of the asset proposed.

The attached policy has been developed to provide a clear transparent basis for the consideration of applications for the transfer of assets to the community.

Decision Areas and Recommendations

- Members are asked to adopt this policy

Background, context, and area of the County affected

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').

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 ECC and the third sector.

The Localism Act received Royal Assent in 2011. It contains key components relating to the transfer of assets to the local community which strengthen the general power of competence – this provides local authorities with the legal capacity to do anything that an individual can do, within the Law.

The Local Government Act 1972 (General Disposal Consent 2003) still provides for local authorities to dispose of an asset at an undervalue of up to £2 million. However the Localism Act 2011 gave the third sector rights to ‘buy’ assets .

ECC recognises the opportunity through CAT to empower the County’s third sector and strengthen the wider community in line with the Council’s strategic aims at the same time as minimising its future financial liability.

It is recognised that a more formal policy is required to support and facilitate the transfer of property to the third sector. This is in recognition of the Localism Act 2011, increased interest for a number of sites from community groups and the potential risk of challenge on individual CAT decisions if an appropriate policy to inform those decisions was not in place.

Deputy Leader and Cabinet Member for Finance and the Transformation Programme and the Cabinet Member for Communities and Planning asked that a review be undertaken into approaches for CAT and a policy be prepared founded on the principles that:

- Transfer is at nil-cost to ECC
- There is a clear and transparent process in place
- Different transfer arrangements will apply for different sized organisations
- ECC’s position (particularly around generating Capital receipts from the sale of property in its ownership) is protected.

The policy has been developed by the Council’s property agents Lambert Smith Hampton in consultation with Policy Services and Essex Property and Facilities.

Proposals

The Policy sets out the basis on which an asset would be transferred to a ‘Group’ and adopts a different approach for different sized organisations:

- For Parish Councils and large charities (those with turnover of more than £1m p.a) the asset will be transferred on a Freehold basis. A clawback of 75% would apply in the event of redevelopment.
- For all other groups the asset will be transferred with a Leasehold interest of up to 999 years.

The criteria for the transfer of an asset are that:

- 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 has been declared as surplus to requirements.
- The asset has a value of £50,000 or less (current use value).

- Assets with a current use value of over £50,000 (and where eligibility criteria are met as set out in sections 2 and 3 of the Policy Paper “Essex County Council Community Asset Transfer) could be acquired by Groups using the existing ECC’s Assisted Purchase Scheme, whereby a Group may purchase the asset at market value subject to a discount of 25% to a maximum discount of £80,000.
- A clear business case to establish the running and use of the asset is provided by the Group.
- No dowry will be provided to the Group by ECC nor improvements made to the asset prior to transfer.
- The Group would meet their and ECC’s reasonable legal and surveying costs.
- No on-going support would be provided by ECC, but this would not restrict the Group from applying for any funding or commissioning opportunities that may emerge.

This approach provides a balance between protecting ECC’s interests and empowering the community to take over and run the smaller assets that are currently held by ECC. A process for assessing applications is outlined in the attached policy.

Assets could end up in the ownership of bodies who operated outside of Essex, although this is most likely with the big national charities

Essex County Council could add additional protections into the lease or transfer documentation of non-Essex based organisations (say for example that they would need to ensure a level of access for Essex residents) if required. This will be considered on a case by case basis and appropriate protections put in place.

Subject to the adoption of this policy, each individual CAT would need to be a decision made by the Cabinet Member responsible for property (currently the Deputy Leader, Cllr David Finch) by a CMA.

Alternative Options

There is the option to not proceed with the policy and to rely on the Localism Act 2011 as the sole method by which communities can manage property. However, ECC has a stated aim to empower community groups and this policy will allow a method to transfer assets both consistent with and beyond the aims of the Localism Act.

Conclusions

The policy meets the objectives set out above by the Cabinet Members at the start of the review; it is recommended that the policy be adopted.

Relevance to ECC’s corporate plan and other Strategic Plans

This links with the ‘Essex Works 2012 to 2017 Business Plan’ in particular the objective around “Giving people a greater say and a greater role in building safer and stronger communities”

Internal and External Consultation

The policy has been developed with Essex Property and Facilities, and representatives from Policy Services. The proposals were considered by the Political Leadership Team on the 16th July 2012.

No formal external consultation has been undertaken.

Legal Implications (Monitoring Officer)

*Information should be presented to demonstrate any legal implications of the decision(s) being made. **This section must be completed by the Monitoring Officer.***

In order to ensure consistency in application of any power of ECC it is useful to promulgate a policy to manage the expectations of likely benefactors and to inform future strategy, here in relation to ECC's property estate. The proposed policy preserves ECC's right to recover any increased value if the use of premises changes and confirms the likely nature of the interests to be transferred as well as other requirements which can commonly be expected by those seeking to exercise the rights under the Localism Act 2011. It may be appropriate to review the operation of the policy as applications proceed.

Finance and Resources Implications (Section 151 Officer)

The proposed policy sets out criteria for Community Asset Transfers for assets with current use value of £50,000 or less. Assets over £50,000 will be assessed under the existing Essex County Council's Assisted Purchase Scheme.

The proposed policy ensures the basis of assessment of applications includes criteria set out in the *Quirk Review of 2007*. This includes ensuring a wide range of financial and non-financial benefits to the wider community and ECC.

Though there is no current indication of the level of interest which the proposed policy could generate, it is estimated that within ECC's current asset portfolio about 300 assets would qualify for transfer under the scheme. However current knowledge of the community envisages that approximately 50 assets would be of immediate interest to Community Organisations. This is subject to ECC service needs and the assets formally declared surplus to requirements.

There are currently 6 expressions of interest on a number of sites. It is estimated that there could be 5 to 10 successful application in a year. Impact on the council's asset base of £1.7billion is expected to be minimal.

Within the current Capital Disposal Programme, there are very few properties which would qualify for transfer under the proposed policy. The approval of the policy is not expected to impact on the current capital receipt targets.

The estimated volume of transfers will result in a reduced though minimal cost of maintenance, both revenue and capital, to ECC. The proposed policy ensures that no on-going contribution from ECC will be required following transfer of assets. Also, in the event of significant redevelopment, transfer or change in community use of the site, ECC would seek to clawback 75% of the current value of the site.

Human Resources Implications

There are no Human Resource Implications.

Equality Impact Assessment

This decision has been screened for Equality and Diversity issues, and the impact is considered to be low. In transferring assets to the community, Essex County Council will be empowering groups and improving community relations.

The review of the policy in three years will provide an opportunity to demonstrate how the community have been supported through this policy.

Background papers



Freehold HOTS



Leasehold HOTS



CAT FAQs



CAT Policy Paper