



Executive Committee

All Ward Relevance

18th November 2009

COMMUNITY MANAGEMENT AND OWNERSHIP OF ASSETS PROPOSED POLICY & PROCEDURE

(Report of the Head of Legal, Democratic & Property Services)

1. **Summary of Proposals**

To consider adoption of a Policy and Procedure on Community Management and Ownership of Assets to provide a consistent approach across Worcestershire.

2. **Recommendations**

The Committee is asked to RECOMMEND that

- 1) the proposed Policy and Procedure on Community Management and Ownership of Assets be adopted;

and to RESOLVE that

- 2) the intention to seek the endorsement of this Policy by other Councils in the Project Team be noted;
- 3) the views of Worcestershire Infrastructure Consortium and the response of the Project Team on this Policy be noted; and
- 4) the intention to review the Policy in the light of operational experience be noted

3. **Financial, Legal, Policy, Risk and Sustainability Implications**

Financial

- 3.1 There are no direct financial implications arising out of this report. Any financial implications arising out of any bids for community management and ownership of Council assets would be considered at a later stage, as part of the proposed procedure.

Legal

- 3.2 Under Section 123 of the Local Government Act 1972 the Council has the power to dispose of its land in any manner it wishes. However, the Council should not dispose of land it holds, otherwise

than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained, unless the Council has Secretary of State consent to the disposal.

- 3.3 The Secretary of State has given a number of General Consents for disposals of land for less than the best consideration. If a proposed disposal does not fall within these General Consents, specific consent is required. The specific consent of relevance to the proposed Policy is set out in paragraph 2 of the draft Policy.

Policy

- 3.4 This policy represents new Policy for the Council.

Risk

- 3.5 The aim of the Policy and procedure is to minimise the risks to which the Council is exposed when considering transfers of ownership or management of public buildings to the community. Having a Policy which is clear and transparent will help to ensure that the Council deals with any requests for transfer of assets to community use in a consistent and fair manner.

Sustainability / Environmental

- 3.6 The sustainability of any particular building will be considered in accordance with the Council's Asset Management Strategy on a regular basis. The costs associated with any future maintenance liabilities will be taken into account in making any decision on whether or not to transfer an asset into community ownership or management.

Report

4. Background

- 4.1 The White Paper Strong and Prosperous Communities set out a clear direction to enable local people and local communities to have more influence and power to improve their lives by giving people a bigger stake in the future of their areas. The Government has seen community management and ownership of assets as one mechanism by which communities can be empowered
- 4.2 In May 2007 Making Assets Work - The Quirk Review of Community Management and Ownership of Public Assets was published. The Review was commissioned by Department of Communities and Local Government (DCLG) to examine the barriers which may exist

preventing communities from managing and owning assets. It recommends ways to create an environment to encourage more community management and ownership of assets.

4.3 **The Quirk Review reached 3 principal conclusions:**

- a) Any sale or transfer of public assets to community ownership and management needs to realise social or community benefits without jeopardising wider public interest concerns and without community bodies becoming overly burdened with asset management
- b) The benefits of community management and ownership of public assets can outweigh the risks and often the opportunity costs in appropriate circumstances – a rational and thorough consideration of these risks and opportunity costs is required
- c) There are risks but they can be minimised and managed by drawing on the experience of others and by all parties working together. This needs political will, managerial imagination and a more business focused approach from the public and community sectors.

4.4 The government's response to the Quirk report *Opening the Transfer Window: The Government's Response to the Quirk Review of Community Management and Ownership of Public Assets* (CLG, 2007), set out some specific actions to be delivered as part of a co-ordinated implementation plan. The emphasis of the report was to promote a change in culture rather than introducing more legislation through the publication of new guidance. It also emphasised providing access to expert advice, promoting possibilities and disseminating good practice, largely through the work of the Asset Transfer Unit. Nationally there has been emphasis on assets being transferred at less than best consideration as a means of empowering local communities.

4.5 In response the County and Districts' Chief Executives' Group commissioned a project to consider the legal and financial implications for councils in Worcestershire in responding to communities' requests for community asset transfer and to consider whether the process and criteria used in decision-making and the range of options available to community organisations could be standardised across Worcestershire councils.

- 4.6 The Project Group has had representation from:
- a) Worcestershire County Council (including representatives from Legal, Financial and Property Services and the Voluntary Sector Unit)
 - b) Bromsgrove District Council
 - c) Redditch Borough Council
 - d) Worcester City Council
 - e) Wychavon District Council.

Wyre Forest District Council, although not part of the Project Group, have also now agreed to sign up to the Draft Policy produced by this project. The aim is for Councils to have signed off the Policy and related Appendices by the end of 2009.

- 4.7 The Project Group have sought to pursue a balanced and measured approach to the development of this work. Whilst aware of the national drivers and of the benefits of asset transfer, the Group have also been mindful of the need to balance the benefits of asset transfer that may be accrued to a particular community of geography or interest with the opportunity costs (i.e. what must be foregone to enable the transfer to proceed) and wider needs and concerns of all of Worcestershire's communities.
- 4.8 The Project Group recognised that there was already a significant body of practice in Worcestershire on which to build. The Group shared best practice and learnt from experience across the Councils of previous examples of asset transfer and sale in Worcestershire. The Group also undertook detailed process mapping work to examine the current "As Is" position across the Councils in responding to requests from community organisations to manage or own council assets. The processes were then re-engineered to provide a consistent framework across the Councils involved.

5. **Key Issues**

- 5.1 The Councils have worked together to produce a draft Community Management and Ownership of Assets Policy. The policy covers scenarios where the management / ownership of a building, or piece of land is required by a Voluntary or Community Sector (VCS) organisation in order to promote a particular community benefit.

- 5.2 It does not refer to the letting or leasing of rooms within Council owned or managed premises. These arrangements are covered in a different way across a range of services.
- 5.3 The policy recognises that asset transfer may cover a spectrum of arrangements ranging from:
1. Licence to occupy
 2. Short / medium term lease
 3. Long lease
 4. Freehold (i.e. sale)
- 5.4 The draft policy proposes that the Councils will deal with all proposals for asset transfer on a case-by-case basis, but with a common methodology. Each case will be considered on its merits – and the most appropriate form of disposal will be explored with the organisation, always having regard to the business case presented and the Council's responsibility to manage its property assets for the benefit of all of Worcestershire's communities
- 5.5 Where it is agreed that sale of an asset is the preferred option, in most cases, this sale will be at the market value for the asset taking account of planning potential and market conditions. Where necessary and appropriate the parties may agree to jointly or separately use an independent professionally qualified Valuer.
- 5.6 The Council recognises however that it can demonstrate its support for asset transfer in a variety of ways. For example, the Council can support transfer by dealing with VCS organisations on a one to one basis (negotiated sales should not be assumed as being at less than market value), or by bearing the costs of retaining an asset for a defined period of time to enable an organisation to finalise its business case.
- 5.7 The policy recognises that the asset transfer decision is essentially a choice between:
- Retention of the asset
- a) The expenditure on other services or priorities made possible as a result of a purely 'commercial' disposal;
 - b) The benefits generated by the transfer of the asset to the community.

In assessing proposals for asset transfer the Council will want to carefully consider the **relative risks and benefits** of these options.

- 5.8 In order to make this assessment a clear business case is required. In recognition of the responsibilities that asset management and ownership confers on an organisation eligibility criteria have been suggested which provide that the organisation must have a legal status, and that at an early stage a Council Service has indicated its "in principle" support for the proposal as supporting corporate, community strategy or LAA priorities.
- 5.9 A two stage business case is introduced (as set out in Appendix One of the Policy). Part A sets out the information required to enable an initial assessment. Straightforward requests can be processed via Property Services with appropriate involvement from service units, local councillors, Portfolio Holder and the VCS Unit.
- 5.10 Where issues are more complex (for example higher value asset, continued revenue support is required, a change of use of premises is required, high level of partner / funder interest) or the sale of an asset is required then a further more detailed business case is requested. This is reviewed by an Assessment Panel, which will conduct a review of the business case, including a financial assessment and a judgement on the robustness of the organisations governance and the sustainability of the proposal. Appendix 4 of the Policy provides a "checklist" against which to assess the business case. Other tools are also available and these can be added in to the checklist as the work develops.
- 5.11 The local Councillors and the Portfolio Holder will be involved in this process, which brings relevant expertise and opinion into one place to take a "council wide" view of the application. A simplified, indicative map of the process is attached as Appendix 2 of the draft Policy.
- 5.12 Councils will also need to be clear of the potential benefits that relate to the proposals that they are considering. Appendix 3 of the Draft Policy sets out some "model" criteria which set out the sorts of considerations that will guide Council decision making. These will not all be appropriate in every case and can be weighted as appropriate to the circumstances on a case by case basis.
- 5.13 The Project Group sought the views of the Worcestershire Infrastructure Consortium (WIC) on the Draft Policy and Appendices. The WIC is a consortia of 12 organisations that provide infrastructure support (e.g. governance, funding, quality assurance etc) across the County.

- 5.14 A number of changes were made to the draft documentation in response to the feedback received from WIC. They are of the view that the policy covers the response to requests by community organisations to manage or own assets.
- 5.15 WIC would prefer to see more pro-active consideration of how assets that are defined as surplus might be utilised for community benefit. WIC are also concerned as to how the Voluntary and Community Sector will be made aware of assets that may be available.
- 5.16 The Project Group is of the view that the draft policy does not preclude Councils who wish to do so from taking a more pro-active approach to community asset transfer depending on their local circumstances. The draft policy is explicit in making clear the essential choice that Councils face between potential benefit derived to communities of geography or interest from asset transfer and the risks and opportunity costs involved, with the expenditure on other services or priorities made possible as a result of a purely 'commercial' disposal. Asset disposal on the open market enable councils to take forward local priorities, and implement its policies and priorities by maximising the value obtained for its assets. The Councils must balance the benefits of asset transfer with other drivers, including the requirement to achieve efficiency savings. The Project Group believes that the draft policy as it stands strikes the right balance, enabling Councils to respond effectively to evidenced community needs.
- 5.17 However the Project Group acknowledges the point that organisations will want to be aware of which assets may be available. The Worcestershire County Council website already offers the Property Register. This facility identifies County Council property for let or sale. There is the facility to register interest in properties that are due for disposal and search surplus properties. The Project Group have agreed to investigate the feasibility of extending the register to include those District Councils who have signed up to the Policy through the Worcestershire Enhanced Two Tier process Property workstream.
- 5.18 In recognition of the need to learn from experience, "pilot" this approach and documentation and keep in touch with the national agenda it is proposed to review the documentation in the light of operational experience and in any case to have a "light touch" review after 6 months and a more formal process after the first year. This proposal also meets a further point raised by WIC to review the policy in light of operation.

6. **Other Implications**

- Asset Management - As identified in the report and draft policy.
- Community Safety - Use and ownership by communities of public assets can have a positive impact on community safety.
- Human Resources - Any transfers of assets to community ownership would be carried out within existing resources.
- Social Exclusion - None identified.

7. **Lessons Learnt**

The Council has had mixed successes in the past in dealing with community ownership and management of assets. Having a clear and transparent policy and procedure will help to ensure that the risks associated with any such transfers is identified, considered and managed appropriately.

8. **Background Papers**

Making Assets Work - The Quirk Review of Community Management and Ownership of Public Assets

Opening the Transfer Window - Governments Response to the Quirk Review of Community Management and Ownership of Public Assets (CLG, 2007)

9. **Consultation**

This report has been prepared in consultation with relevant Borough Council Officers and colleagues in the Project Group.

10. **Author of Report**

The author of this report is Sue Mullins (Head of Legal, Democratic & Property Services), who can be contacted on extension 3210 (e-mail: sue.mullins@redditchbc.gov.uk) for more information.

11. Appendices

Appendix 1 – Draft Policy, including the following four appendices:

Framework Business Plan

Process for Consideration of requests

“Model” criteria for asset transfer

Assessment of proposal for asset transfer