

MIDLOTHIAN COUNCIL COMMUNITY ASSET TRANSFER POLICY

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1.0 Policy Statement on Community Asset Transfer

- 1.1** Midlothian Council is fully committed to optimising the use of its assets to deliver effective services and the need to develop opportunities for shared services with the benefits this can bring for the communities, the Council and Community Partners. The Council realises the potential that Council property assets can have as a basis for developing long-term partnerships with Non Profit Distributing Voluntary Organisations (NPDVO's) where they strive to develop and co produce community based local services. The Community Asset Transfer Policy is seen as playing a valuable role in supporting and sustaining the vitality of local communities in Midlothian.
- 1.2** Where both the community and the Council recognise the importance of an asset to the health and wellbeing of a community the Council will seek to react positively to fully considered and supported applications from NPDVO's to own and operate assets they the Council and the community consider to be an important part of their community and for which there is a demonstrable and provable regularly open community use.
- 1.3** The Council will as part of an initial assessment of proposals brought forward by qualifying established groups require submission of a formal application so that it can consider whether an asset should be retained by the Council or might be a candidate for Community Asset Transfer. The process for assessing requests from qualifying groups to transfer assets requires that accepted applicants provide an in-depth business plan, which is comprehensive clear and robust with appropriate supporting information which shall include as a minimum, demonstrable confirmation of robust arrangements for the sustainable long term management of, and financing of, the transferred assets, and continuity of proposed services. In this respect the Council will expect account to be taken of the cost of asset ownership, its lifetime management, evidence of likely income expectations, user numbers, staffing levels, and safety management. Central to any application will be the need for broad and genuine community support for the proposed purpose of the transfer.
- 1.4** In considering submitted applications the Council will need to be convinced and assured that the NPDVO's proposing the transfer can continually support the community's needs and the Council's stated aims, objectives and service expectations in order to promote stronger more cohesive and resilient communities.
- 1.5** The Council whilst fully supporting the principle of asset transfer must highlight and recognise that some assets will need to remain under Council ownership and management as they are required to:
- support the delivery of essential services;
 - provide the Council with a continued income stream; and
 - support economic activity in an area.
- 1.6** Communities need also to recognise that some assets may be unsuitable for transfer due to issues such as restrictive covenants; that specific assets may

form part of a larger landholding the transfer of part of which would be detrimental to the Council's remaining or surrounding land-ownerships; or that the assets are required by the Council in order to perform a statutory function.

2.0 Background

- 2.1** This Community Asset Transfer Policy sets out a framework that enables a process aimed at supporting and managing the transfer of assets from the Council to Non Profit Distributing Community Organisation's (NPDVO's) with the aim of bringing about long term social, economic and environmental benefits for communities, making them more resilient and giving them more control and influence over their own future.
- 2.2** Council property assets often support and play an important role in facilitating services to communities. Overall financial pressures place increasing strains on the ability of Councils to sustain, maintain and fund the range of property assets they hold in order to deliver and support the services which communities expect to be provided locally. Alternative methods of sustainably maintaining local facilities need to be found in order to secure the future wellbeing of local communities.
- 2.3** 'Community Co Production' offers a means by which local community based NPDVOs can assume control of certain assets and continue to facilitate the provision of services within their communities.
- 2.4** Local community NPDVOs are often able to access capital funding streams (grants etc.) which Local Authorities are unable to apply for. In doing so they are able to fund enhancements, improvements and even the replacement of community assets, provided they have appropriate control over those assets. Community Asset Transfer (CAT) is one means by which local communities can seek to take on that ownership role and in doing so can secure facilities for the continued flexible provision of local services, provide a focus for ongoing community activities and act as an impetus for community empowerment regeneration and resilience.
- 2.5** Community Asset Transfer is not suitable for all properties or all organisations, but the aims of the policy, in conjunction with the continuing supportive role provided by Community Development and Regeneration teams, provides a framework for the development of co production opportunities to ensure that a range of tools, programmes and initiatives are in place to support the development of a strong, robust and sustainable voluntary and community sector in Midlothian.
- 2.6** The Community Asset Transfer policy directly accords with the overall vision and values of the Council, and directly contributes to its strategic priorities of:-
- Supporting healthy, caring and diverse communities where local needs are met.

- Maximising business opportunities.
- Maintaining Midlothian as a safe place to live, work and visit.
- Conserving and improving Midlothian's natural environment.
- Improving Opportunities for People in Midlothian.
- Delivering Responsive, Efficient and Effective Services to the People of Midlothian.

2.7 The Single Midlothian Plan 2013, combines and replaces both the previous Midlothian Community Plan and the Council's Corporate Plan. It places community planning at the centre of the way forward for council services and requires that Council service plans demonstrate how they will support the delivery of shared services. The plan incorporates the findings and outcomes the Neighbourhood planning process overseen by the Community Planning Partnership. At a more detailed level Local Neighbourhood Plans seek, through working with local communities, to identify and better meet community needs. Central to this is an environment of partnership working to assist local communities.

Further information can be obtained from the following sources.

Land Reform (Scotland) Act 2003

(<http://www.legislation.gov.uk/asp/2003/2/contents>)

(<http://www.scotland.gov.uk/Resource/Doc/931/0098748.doc>)

Community Empowerment Action Plan (CEAP). *Scottish Government/(CoSLA) 2009*

<http://www.scotland.gov.uk/Publications/2009/03/20155113/0>

'Achieving a Sustainable Future: Regeneration Strategy'. *Scottish Government 2011*

<http://www.scotland.gov.uk/Publications/2011/12/09110320/0>

Development Trust Association of Scotland (<http://www.dtascot.org.uk/>)

Big Lottery Scotland (<http://www.biglotteryfund.org.uk/index>)

"Future Delivery of Public Services in Scotland" (the Christie Report 2011)

<http://www.scotland.gov.uk/About/Review/publicservicescommission>

'Growing Community Assets Programme'

http://www.biglotteryfund.org.uk/prog_growing_community_assets?regioncode=-sco

2.8 The Christie Commission on the "Future Delivery of Public Services in Scotland" (the Christie Report 2011) highlights that with the increasing demands brought on by both an ageing population and the impact of financial constraints, current service delivery models will become unaffordable and unsustainable. The report calls for increased public service intervention with focus on prevention, through community driven collaboratively designed services, based around user needs. The report details the need for communities to become more self reliant and resilient and calls on existing agencies to work more collaboratively, to simplify service delivery, and to reduce costs.

3.0 Aims and Benefits of Community Asset Transfer

- 3.1** The Community Asset Transfer policy seeks to support the Council and Community Partners in seeking alternative innovative ways of delivering services within an existing policy framework in a way in which benefits all. The Council's physical assets include land, buildings and other structures which are used for a variety of different social, community and public purposes. For some of these assets, community management and ownership could deliver a range of benefits to the local community, to the NPDVO taking on the asset, as well as to the Council and other public sector service providers as they strive to support key services.
- 3.2** The policy recognises that NPDVOs have the potential to assist in the delivery of these services, when they are given opportunity and support to develop the adequate capacity and skills to undertake these roles.
- 3.3** Working to support and build appropriate community skills, confidence and resources, is recognised as a key issue which the Council will assist in achieving. In return the Council will promote the appropriate transfer of assets when it is satisfied that the receiving communities (through the relevant NPDVOs) are self reliant, robust, resourced, well managed and sustainable.

3.4 Benefits to the Local Community

For local communities the process of community asset transfer can:-

- a) devolve power to neighbourhoods in an effort to encourage citizen involvement and community action;
- b) contribute towards the regeneration of communities and act as a catalyst for social, environmental and economic regeneration (including the development of community enterprises);
- c) provide opportunities to extend the useful life of a building or area of land, increasing its community value in relation to the number of people benefiting from the range of opportunities that might be offered and ensuring more effective and more intensive use of local resources;
- d) stimulate the involvement of local people in shaping and regenerating their communities, which and can be a catalyst for local volunteering and increasing community cohesion;
- e) provide new opportunities for local learning and community capacity building, identifying and supporting community leaders, and inspiring others to improve their community; and
- f) instil a heightened sense of civic pride and responsibility within a community.

3.5 Benefits to Non Profit Distributing Voluntary Organisations (NPDVOs)

There are clear benefits to NPDVOs in owning or managing community assets such as village halls, community centres, building preservation trusts and community enterprises. Community ownership of assets can:-

- a) generate a long term sustainable revenue stream for the NPDVOs making them more sustainable;

- b) provide local people with a meaningful stake in the future development of the place in which they live and/or work;
- c) be used as leverage to draw in new finance and expand the level of community activity;
- d) improve the quality of the relationship between the citizen, the community and the Council, and
- e) provide opportunities for the creation of new partnerships (including, if appropriate Council/NPDVO joint ventures) providing access to resources not directly available to the Council.

3.6 Community ownership of assets can make an important contribution to the range of innovative, grass root solutions which NPDVOs can develop to address local needs. Importantly, these solutions not only meet the needs of the local people, they can also contribute to the delivery of wider strategic priorities.

3.7 Benefits to the Council

The potential benefits of Community Asset Transfer for the Council include:-

- a) providing a more accessible and responsive base from which to deliver services;
- b) strengthening “community anchors”;
- c) restoring “iconic” buildings;
- d) delivering social, economic and environmental benefits;
- e) providing a catalyst for inward investment and local multipliers through local purchasing and employment;
- f) solving building management problems and lowering ongoing costs;
- g) helping to progress Community Planning priorities;
- h) providing opportunities for long-term working between sectors;
- i) creating the opportunity for investment in the asset that may not be possible within Council ownership; and
- j) bringing back into full use properties deemed surplus to requirement or under performing.

3.8 Measuring the Benefits

In determining whether an asset is suitable for transfer and the most appropriate form of asset transfer, the Council will seek to measure the benefits and risks which might be expected. Benefits can be measured in terms of the economic, social and environmental well-being of the community and can probably best be summarised as matters which result in the regeneration of an area; that is, creating a community which is self reliant and sustainable. Risks are represented by the potential for failure, and impact of that on the community and the Council.

3.9 In considering potential asset transfers, the Council will therefore evaluate each proposal in terms of its ability to contribute to effective regeneration through consideration of the following issues:-

- a) financial viability;
- b) strategic added value;
- c) contribution to, and accord with, the Single Midlothian Plan;

- d) community support and participation;
- e) support for 'Early Years';
- f) encouragement and support of economic development and social enterprise;
- g) meeting objectives set out in Local Neighbourhood Plans;
- h) provision of area wide and local community benefits; and
- i) value for money and savings to the Council.

4.0 Forms of Community Asset Transfer

4.1 The key policy requirement for the transfer of any asset is that it be used primarily by NPDVOs to create the widest possible sustainable public value.

4.2 Community asset transfer involves the transfer of responsibility for an asset from the Council to a NPDVO. This transfer can be affected in different ways depending on the circumstances of each organisation. There are essentially two types of arrangement.

4.3 *Type 1: Transfer of outright ownership*

This is where a NPDVO approaches the Council seeking to own the freehold of the asset(s) in question. In such circumstances the Council shall require that the NPDVO can clearly demonstrate community benefit (as set out above) and could consider the case for a disposal at less than the best consideration. This could result in transferring the asset at a reduced price. In setting that price the Council shall have regard to the social, economic and environmental benefits such a transfer would be expected to generate.

4.4 In other circumstances the Council may have already decided that an asset is surplus to its requirements and is approached by a NPDVO that wishes to acquire the asset. The Council has a duty to obtain best consideration for surplus assets, however in the interests of Best Value it might consider 'protecting' the disposal of the asset from the open market for a reasonable agreed period of time to enable the NPDVO to raise the required capital to complete purchase. During this period the NPDVO might utilise the asset for a specified period by way of licence, during which time it would be responsible for the running and maintenance of the asset but would not be permitted to make any alterations or improvements to the asset.

4.5 *Type 2: Transfer of an asset for a specified period leading to outright transfer of ownership*

There may also be circumstances where the Council, whilst supportive of a community in the desire to take control of a specific asset, but which due to the wider interests of the Council or due to capacity concerns with regard to the NPDVO, it would be considered more appropriate to lease or licence the asset. The Council might in such circumstances agree a package of both practical and financial support aimed at reaching a position where the NPDVO is both capable and able to own, manage and run the asset effectively without support. Transferring assets for a specified period is a logical outcome of such tapering support packages.

- 4.6** Depending on the circumstances of the organisation such agreements might be subject to leasing arrangements or occupancy arrangements and the most appropriate format would be dependant on specific circumstances.

4.7 *Developer Contributions*

There are also circumstances when a community may own, or wish to acquire an asset which it wishes to develop. In those communities where there is considerable pressure on community asset provision arising from new development, provided it has been identified and quantified at a sufficiently early point within the Statutory Local Plan review process then Midlothian Council as the Local Planning Authority can as part of negotiations for developer contributions seek to secure financial funding from the development of new housing in the locality to provide additional community space/capacity. Appropriately formed NPDVOs can then seek, subject to appropriate safeguards to use secured funds (where these are available) to develop new and effective community assets. The Council will however be keen to see the new facility accommodate services and community activities which might currently be undertaken from a number of disparate and unfit assets.

4.8 *Surplus Property Policy*

The Council's Property Investment Account (PIA) comprises of a range of properties which the Council has deemed to be surplus and is therefore available for sale for best consideration. The Council may in certain circumstances consider disposing assets from the PIA to an appropriate NPDVO subject to agreement over the sale price and/or other benefits which have been identified in section 3 above.

5.0 Application of the Asset Transfer Policy

- 5.1** The Council's policy on Community Asset Transfer is underpinned by the following principles;

- 5.2** Proactive Strategy - The Council will seek to implement the policy proactively through awareness raising, outreach and support in order to encourage appropriate groups to take on an asset.

- 5.3** Responding Strategically - The Council will respond to requests for asset transfer by exploring the strategic implications of a transfer. This will take account of priorities set out in the Single Midlothian Plan as well as those set out in service specific strategies and plans.

- 5.4** Transparency and Consistency - The Council will have a transparent corporate process for asset transfer which includes a clear point of first contact and clear agreed stages and timescales for each party. The Council will adopt an agreed method of assessing the benefits, costs and risks of the transfer.

5.5 Applicable Assets

For the purposes of this policy an asset shall be considered to be land or buildings in the ownership of Midlothian Council. The policy applies to assets

that are under performing or deemed surplus to requirements as well as to “community amenity assets” such as town halls, village halls, pavilions, community centres, bowling greens, public conveniences, country parks etc.

Whilst the Council will welcome an expression of interest from NPDVOs for the transfer of any Council owned asset which has been identified as suitable for transfer. The decision to make any assets available for transfer will be made on a building by building basis by the Council whose decision will be final.

5.6 Non Applicable Assets

Some assets are considered not to be appropriate for consideration as part of the community asset transfer policy unless the Council considers that the service provided can be better delivered through transfer to a NPDVO in accordance with the evaluation criteria and the asset itself is considered suitable for transfer on a case by case basis.

5.7 Assets key to the delivery of essential services or that generate an income stream for the Council will not be considered suitable for transfer. In addition assets that support economic activity within an area or have restrictive covenants on them may also not be suitable for transfer.

5.8 Assets such as houses, buildings and land held on the Council’s Housing Revenue Account are also excluded from this policy.

6.0 Community Groups

6.1 The key factor is not the precise nature or structure of the organisational model of community groups but that they are recognised by the Council and in their communities as robust transparent, well run locally important organisations open to all members of the Community.

6.2 It is not possible to provide a comprehensive definition of the types of community groups covered by this policy. NPDVOs take many forms, e.g. church groups, community associations, development trusts, community councils, community forums, tenant organisations and community based housing associations etc and can adopt different types of legal structures such as company limited by guarantee, unincorporated (voluntary) association, partnership organisation, company limited by shares, charitable status, community interest company status, etc.

6.3 For the purpose of this policy an NPDVO will be expected to have the following characteristics:-

- a) it is formally-constituted;
- b) it has sound, robust management and governance arrangements;
- c) it has its own decision-making system and accountability to independent trustees or its own members or constituents;
- d) it does not distribute any surplus to owners or members but applies it to serving its basic purpose (excludes commercial concerns but includes

organisations which charge users or the public for services or undertakes contracts for the Council or its Community Partners);

- e) it is non-political and is not engaged in supporting candidates for political office; and
- f) it has a significant and demonstrable element of involvement of volunteers.

6.4 The Council will consider transfer of assets to long established, stable and secure formal organisations and will also consider transfers to newly formed community groups provided they can demonstrate they have the necessary expertise and experience to manage the asset and have a sound business plan in place. In all cases transfers will be subject to a formal transfer and evaluation process.

6.5 Assets will not be transferred to individuals or businesses to be used as vehicles for commercial ventures.

6.6 Assets will not be transferred to individuals or groups for party political use.

SUMMARY OF THE ASSET TRANSFER PROCESS