

Appendix II - Draft Community Asset Transfer Policy

Purpose of the policy

The Council views CATs positively as part of its long-term support for engagement and partnership with the Parish and Town Councils and the voluntary and community sector.

Having been informed by public consultation in the autumn of 2024, this policy sets out the framework for the disposal of Council property assets through Community Asset Transfers. It reflects the aims of the Property and Asset Strategy and should be read in conjunction with this and the Council's Disposal Policy.

The Property Procedure Rules (November 2023) and the Councils constitution provide guidance on the procedures to be followed in the disposal of Council owned property.

Background

The Council has fairly wide discretion to dispose of its assets, including land or buildings. When disposing of assets, the Council is subject to statutory requirements, in particular to the overriding duty, under section 123 of the Local Government Act 1972, to obtain the best consideration that can be reasonably obtained for a disposal.

This duty is subject to certain exceptions that are set out in the General Disposal Consent (England) 2003. Within financial limits, this gives Councils wider powers to dispose of land and property at less than market value where it could be demonstrated that they promoted the economic, social and environmental well-being of the area.

Subsequent central government policies have also encouraged the community ownership and management of assets through a series of initiatives, most recently the 2011 localism act.

The overarching aims of these policies have been to:

- sustain viability and improve service provision;
- deliver sustainable solutions that are accepted, agreed, 'owned' and driven by the local community;
- increase the number of local people helping to run or own local services or assets;
- realise wider community benefits such as increased levels of volunteering, social capital and civic participation; and
- improve the leverage of external funding into the local area through increased funding opportunities, encouraging economic development, and social enterprise activity.

The Assets of Community Value provisions within the 2011 Localism Act entitle community groups to nominate assets in their locality to be placed on the List of Assets of Community Value. There is a separate process in respect of this legislation and is **not** covered by this policy, except where an Asset of Community Value is considered for a Community Asset Transfer.

Definition and of Community Asset Transfer (CAT)

The term 'Community Asset Transfer' (CAT) is defined as 'where the Council transfers land or buildings into the ownership or management of a Voluntary and Community Sector (VCS) organisation or statutory body'.

For the purposes of this policy, those bodies consist of statutory parish and town councils together with properly constituted voluntary groups, charities and trusts.

The use of a CAT applies to Council assets where community activities are the primary purpose of the asset, e.g. community halls and allotments. This is usually at less than market value, as a means to further local social, economic and / or environmental objectives.

This policy will also apply where community assets are being managed by a VCS group under a short-term lease or management agreement and a request has been received from the group for a long lease transfer.

CAT is a voluntary process entered into proactively by public bodies. They can provide significant benefits to both local councils and community groups by empowering communities and promoting local stewardship. Swale Borough Council is keen to embrace the opportunities it presents. The Council's Corporate Plan 2024-2027 identifies a priority to "work in partnership with the local towns and parishes and voluntary sector on our community assets."

The Process

The process of considering, agreeing and implementing a Community Asset Transfer will require resources from both the Council and the recipient organisation and will take some time. Although a number of steps are involved in a Community Asset Transfer, there are three key stages for those groups who are interested: -

- Stage 1 - Expression of Interest.
- Stage 2 - Full Application and Business Case
- Stage 3 –Heads of Terms for the transfer and basis for a Joint Working Agreement.

The CAT process may be started by either the Council advertising an opportunity or by an individual/organisation making an unsolicited request to take on management responsibility for an asset.

Proposed Community Asset Transfers will generally be advertised on the Swale Borough Council website requesting Expressions of Interest. At its discretion, the Council may choose not to carry out an Expression of Interest process where:

- The asset is already occupied by a VCS organisation who has occupied the asset for three or more years and has fully complied with the terms of the tenancy/lease; and either
- The organisation has invested a capital sum in the asset that has had a significant impact on the quality of the asset or service being delivered; or
- A constituted group has been set up through a community engagement exercise with the express purpose of managing the asset.

For those indicating an Expression of Interest in an asset, the Council would normally expect to be able to consider a full application with accompanying business case within a period of no more than a year. If this is not achieved, the Council will consider its approach to the asset in question, including whether a proposed CAT remains the best option.

Principles for consideration in relation to Community Asset Transfers

The Council's Economy and Property Committee has agreed (to be confirmed by committee) the following principles which will underpin Swale Borough Council's approach to Community Asset Transfers.

1. **Risk Management:** The Council will identify potential risks associated with a CAT and develop a risk management strategy. This could include financial risks, management risks, and the risk of community conflict. A comprehensive risk management strategy will help to mitigate these risks and ensure the long-term sustainability of the asset transfer.
2. **Community Engagement:** The Council will engage the relevant local parish and/or ward councillors (and other relevant stakeholders if required) in the decision-making process for asset transfers. This can help to ensure local buy-in and support and may also open up additional sources of support and funding or alternative transferees.
3. **Clear Communication:** The Council will be transparent about the nature of the transfer and its potential implications. It will ensure community groups understand that they are receiving a valuable asset that can equate to a subsidy and what their responsibilities will be, particularly regarding property maintenance and repairs. This can prevent misunderstandings and poor asset maintenance and / or governance down the line.
4. **Long-term Financial Planning:** Community groups will be required to develop robust long-term financial plans that account for ongoing maintenance and repair costs, which remain under periodic review. This could involve setting up a sinking fund for future repairs or seeking external funding sources.
5. **Legal and Contractual Clarity:** The Council will ensure that the legal agreements surrounding the asset transfer are clear and understood by those

involved (although CAT recipients will always be advised to take independent advice).

6. **Regular Monitoring and Evaluation:** There will be a need to implement a monitoring and evaluation system to track the performance and impact of the transferred assets. This will allow the Council to understand progress against plans submitted in support of the CAT and whether action is being taken to address any issues arising. This will also prepare partners should it become clear that the asset is likely to fall into disrepair or be mismanaged.
7. **Exit Strategy:** Every transfer should have a defined and agreed plan in place for what happens if the community group is no longer able to or have failed in managing the asset. This might involve transferring the asset to another group, selling it, or returning it to council control.

Swale Borough Council's approach to Community Asset Transfer

The Council will seek to implement a new CAT policy through targeted awareness raising, outreach and support to encourage town and parish councils or Voluntary and Community Sector (VCS) organisations.

Transfers will only take place to a statutory body (such as a town or parish council) or properly constituted group (for example, but not limited to, a Trust, Charity, Community Interest Company or Charitable Incorporated Organisation)

Any organisation must be able to demonstrate that it has the skills and experience to run the asset and a fully worked up, credible Business Plan for the asset in question. A CAT will not proceed if an organisation cannot adequately address this.

Where a business case is unsustainable, or progress towards a business case is not within appropriate timeframes (usually no more than 12 months), officers will make recommendations based on property, strategic and financial considerations. This would maintain the focus on minimising risk and maintaining the long-term viability of the Council's assets, which is key to supporting the wider delivery of services.

The Council will endeavour to work to an agreed and achievable timescale for CAT completions. It should be understood that the process of implementing a successful transfer can take time and requires resources from both the Council and the organisation seeking to secure the property asset, as well as specific legal input on both sides.

All CAT proposals will be discussed by Swale Borough Council's Officer Property Review Group which will make recommendations to the relevant Committee or to officers where values fall within the limits of delegated authority. There will also be consultation with local ward members, appropriate Council officers and other organisations as deemed to be required.

Support for organisations

To pro-actively pursue CAT opportunities, support and training for community groups may be needed to ensure they can build and present a sustainable business model

and manage and maintain the assets effectively. Whilst no existing Council resource is currently available to support this, some external funding or advice may be available, depending on the nature of both the asset and any plans a group is seeking to bring forward for it. The Council will seek to signpost to any such support.