

TEESDALE DISTRICT COUNCIL

**Report To: EXECUTIVE COMMITTEE
7 April 2008**

From: Chief Finance Officer

Ward Member: All

Subject: TRANSFER OF ASSETS TO PARISH AND TOWN COUNCILS

1.0 SUMMARY

1.1 The purpose of this report is to propose a policy for the possible transfer of some Council assets to parish and town councils for a nil or nominal value.

2.0 RECOMMENDATION(S)

2.1 It is recommended that

2.1.1 A policy of transferring assets to parish and town councils at nil value be adopted

2.1.2 The policy framework for such transfers should be as set out at bullet points (1) to (4) of paragraph 5 of this report

2.1.3 The procedure for dealing with requests for transfers be as set out at bullet points (A) to (C) of paragraph 5 of this report

2.1.4 Transfers should be made without restrictive covenants, both parties should meet their own legal costs, and no dowry should be payable upon the transfer of any asset.

3.0 LINK TO CORPORATE KEY PRIORITIES/AMBITIONS

3.1 Priority: Grow Teesdale's Economy
Improvement Programme

3.2 Ambition: Maximising Resources

3.3 Outcome: Assets are transferred where this results in the improvement of the economic, social or environmental well-being of the area

4.0 BACKGROUND

4.1 Barnard Castle Town Council has formally requested that the Council consider transferring assets to it. The Council must therefore make a judgement as to whether or not, in principle, this should happen. If the

Council is minded to consider individual requests for asset transfers then it must agree a policy and procedure for the process.

5.0 THE POLICY

5.1 In the first instance the Council should invite expressions of interest from all the town and parish councils in respect of specific assets they would in principle wish to acquire. It may be that the parish and town councils will require some guidance at this stage as to which assets the Council might transfer.

5.2 It is recommended that the guidance should state that:

1. only assets which are important locally for the social, environmental or economic wellbeing of the particular parish or town council will be considered and
2. only assets that do not generate a significant income flow will be considered and
3. where assets do generate an income flow this is, over the medium to long-term, likely to be exceeded by the cost of maintaining the asset and
4. the value of the asset does not exceed £2 million, the value to be determined by reference to its unrestricted value as defined in the legal implications of this report at paragraph 6.6.

5.3 Upon receipt of any formal expressions of interest, the Council's officers should then research the actual annual cost of providing the asset, and give an estimate of the likely future maintenance or replacement costs of the asset over a ten year period following the transfer. In addition any other matters should be brought to the attention of the relevant town or parish council which might reasonably be expected to have a bearing on the decision as to whether or not to accept a transfer of an asset. This information should then be communicated to the relevant parish and town councils to ensure that they are aware of the financial consequences of taking a transfer of the asset.

5.4 If, in the light of the information concerning costs and any other relevant matters, parish and town councils wish to continue with a transfer, then individual assets would be subject to the following process:

- A. The Development Control Manager would issue an opinion on what uses might receive planning permission having regard to the existing planning policies of the Council that affect the asset under consideration.
- B. The Council's external valuer would give a formal opinion of the value of the asset based on the most valuable acceptable use of the subject asset in accordance with the opinion at (A) above, to ensure

that the value does not exceed £2m, and in order that the Council is aware of the value of the asset that it is considering transferring.

C. A report on any possible asset transfers would be prepared for consideration by the Council's Executive Committee that provides the information at (A) and (B) and gives an assessment as to whether, in the opinion of officers, the transfer of the asset would be in the social, environmental or economic interests of the community, and any other relevant matters. Such reports would also contain a recommendation on whether or not to carry out the transfer.

5.5 Because of issues of conflict of interest both parties to the transfer should instruct their own solicitors.

5.6 Transfers should be made without covenants as to their future use so that the relevant parish and town councils have all the benefits of owning the asset as well as all the liabilities.

6.0 STATUTORY CONSIDERATIONS

6.1 Financial Implications:

The financial implications arising from any policy to transfer assets to town and parish councils can not be determined until the details of individual cases are individually assessed. However, the financial implications would not be significant if the policy recommended in this report was to be adopted.

6.2 Risk:

Risk	Category	Implications
An asset is transferred that would benefit the district council or the future unitary authority	Operational Financial	Service delivery is restricted or the authority must employ additional assets to enable services to be delivered effectively
An asset is not transferred that would benefit a local council	Community	The benefit of the asset is not maximised

6.3 Equality and Diversity:

6.4 Human Resources:
None, apart from potentially increasing workloads.

6.5 Community Safety:

6.6 Legal Issues:

Currently, Section 123 (1) of the Local Government Act 1972 permits the disposal of land held by the Council in any manner they wish, subject to the requirement that the Council must not dispose of any

land for a consideration less than the best that can reasonably be obtained.

However, the General Disposal Consent (England) 2003 removes the requirement for local authorities to seek specific consent from the Secretary of State, for disposal of land where the difference between the **unrestricted value** of the land to be disposed of and the consideration accepted by the Council is £2m or less, where the disposal of the land assists in the improvement of the economic, social or environmental well-being of its area.

The term unrestricted value is important. It is not necessarily the value of the asset as it is currently used. Rather the valuation of the land should take account of whatever uses might be permitted by the local planning authority insofar as these would be reflected by the market rather than having regard only to the use or uses intended.

Clause 24(1) (a) of the Local Government and Public Involvement in Health Bill provides that an authority subject to being dissolved may not without the written consent of a person specified, (probably the Joint Implementation Committee that oversees the move to the new unitary authority) dispose of any land if the consideration exceeds £100,000. The Implementation Executive has determined, in the context of 'business as usual', that there will be a general consent to permit disposals of land where its value is less than £250,000.

Background papers:

1. None

Author: Joanne Kellett
Chief Finance Officer
01833 696234