

TEESDALE DISTRICT COUNCIL

Report To: EXECUTIVE COMMITTEE
19 May 2008

From: Lead Member for Resources: Councillor G K Robinson

Ward Member: All

Subject: COMMUNITY ASSET TRANSFER

1.0 SUMMARY

1.1 The purpose of this report is to inform the Executive Committee of the Government's promotion of the concept of local authority asset transfer to communities, and to determine a local policy for Teesdale District Council.

2.0 RECOMMENDATION(S)

2.1 It is recommended that

2.1.1 A policy of transferring assets to community organisations at nil or reduced value is adopted

2.1.2 The policy framework and procedure for such transfers should be as set out at paragraph 7 of this report

2.1.3 This policy will form part of the Asset Management Plan.

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 Local authorities are given discretionary powers under the Local Government Act 1972: General Disposal Consent 2003 to dispose of land in any manner they wish, normally for the best consideration reasonably obtainable, but in certain circumstances disposal can be at a lower value or less than best consideration. This is subject to the

condition that the undervalue does not exceed £2 million and that land is held under powers which permit disposal under the 1972 Act.

- 4.2 The specified circumstances for disposal under the Act are where the Authority considers the land is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area:
1. The promotion or improvement of economic well being
 2. The promotion or improvement of social well being
 3. The promotion or improvement of environmental well being.

- 4.3 The Government has been promoting the concept of asset transfer to communities to further develop active communities and viable community based enterprises through a number of different Reports since 2003 (DTI Social Enterprise Strategy 2003). In 2006 a report from the ODPM/Home Office recommended the need to promote more widely the benefits of and opportunities for community ownership and management of land and property assets. This was further emphasised in the Quirk Review – ‘Making Assets Work’ – in May 2007.

- 4.4 As part of the Government’s commitment to expand these opportunities it set up a £30 million community assets fund in 2007, managed by the Big Lottery Fund, to facilitate transfer of management or ownership of local authority assets by providing capital for refurbishment of property assets. Refurbishment works had to consider the energy efficiency of buildings to reduce running costs and the contribution to climate change.

- 4.5 The pressures on local authority finance have also focussed attention on the opportunity for the voluntary sector/community groups to deliver services in a more cost effective manner whilst at the same time developing active communities. Community and voluntary groups are themselves being made aware of the Government’s promotion of asset transfer through organisations such as the Development Trusts Association.

5.0 WHAT IS ASSET TRANSFER?

- 5.1 Asset transfer refers to local communities’ ability to acquire land and buildings from the local authority property portfolio, either at market value or at a discount, in order to deliver local services that meet local needs. For the authority to choose to forego the financial benefits of market disposal it is necessary for the community group to demonstrate added value and benefits by contributing to sustainable community objectives.
- 5.2 Community benefits include the ability to plan, create wealth, accumulate income and generate a surplus for the community as well

as restore buildings and deliver social, economic and environmental benefits. Redevelopment or refurbishment of a building can attract other investment as well as provide local employment and purchasing opportunities. Transfer of an asset can provide the opportunity to lever more resources into a community and provide a more accessible and responsive base from which to deliver local services. It should strengthen the local community and provide a channel for user and community communication and advance neighborhood regeneration plans.

- 5.3 The community organisation can benefit from greater financial stability and build confidence through having ownership (or long term security through a lease) of a physical asset. This financial sustainability can help the organisation become less dependent on grants, provide collateral for further borrowing and opportunities for further growth.
- 5.4 Typically, organisations that would be considered appropriate are Voluntary and Community Groups/Associations, Trusts or Charities, Social Enterprise or Regeneration Groups. Transfers to Town or Parish Councils are considered in a separate policy.

6.0 THE RISKS

- 6.1 Not every building or piece of land will be an asset for the community, in fact some will represent liabilities (e.g. poor condition, wrong size/location/configuration, listed and expensive to maintain, etc.), creating a drain on resources, generate too little income and potentially set the group up for failure. To mitigate this risk the community group will need to provide a robust business plan that is deemed to be achievable. Equally the authority should be forthright in its assessment of the building's condition and future maintenance liabilities.
- 6.2 This is also recognised by the community assets fund and applications for grant requires there to be “robust business plans that aim for long term financial sustainability” and “eligible assets will be those where the partnerships can show that they are appropriate for transfer and fulfill the fund principles”.
- 6.3 Community access to assets should not be restricted through the process of transfer and legal agreements should be in place to ensure they are not sold on or privately appropriated, except with the authority's consent and relevant financial clawback provisions.
- 6.4 There is also a risk that the Government's initiative will create expectation with community groups of a host of property being available to them. The Council's property portfolio is subject to regular review and any surplus property disposed of through normal procedures.

7.0 THE POLICY

- 7.1 This policy will be an addition to and will form part of the Asset Management Plan.
- 7.2 The Council will look through its ownership of land and property at ways of achieving community objectives, recognising that 'best consideration' in terms of asset use and disposal is not necessarily always measured simply in monetary terms.
- 7.3 Using discretionary powers the Council will where appropriate and compatible with the General Disposal Consent 2003 include the option of community management or ownership within the options appraisal process for surplus, underused or other suitable assets where an approach has been made by a community body or group, and such disposal is likely to contribute to the promotion or improvement of the economic, social or environmental well being of it's area where:
- A community partnership can be entered into based on public access to and use of an asset
 - The promoting local body, group or association is properly constituted and managed and is prepared to enter into an appropriate agreement with the Council
 - The body provides a business plan that is acceptable to the Chief Finance Officer.
- 7.4 The asset transfer will be by the method most appropriate to the individual case and maybe by way of a lease, freehold transfer or such other mechanism as agreed with the Council's legal services provider to protect the body and the Council's interests.
- 7.5 Where land or buildings may have future development value the Council will covenant with the Group to safeguard its, or its successor authority's, long-term interests.
- 7.6 The Executive Committee will have absolute discretion in determining those assets that can be considered for transfer.
- 7.7 Each party to bear their own legal costs.

8.0 STATUTORY CONSIDERATIONS

8.1 Financial Implications:

There is a tension between the traditional asset management approach to maximising the financial value of assets to meet the cost of services or provide a capital receipt and using them in a way that can directly support the achievement of objectives in a different way.

In some instances an asset transfer could mean the loss of rental income, although there may be a reduction in the Council's property costs and the provision of grant monies may also come under review. There are no immediate financial implications and each case should be decided on its merits.

8.2 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 community organisation	Community	The benefit of the asset is not maximised

8.3 Equality and Diversity:

The policy aims to ensure that asset transfers will be regardless of race, gender, disability, age, sexual orientation, religion or belief or rural isolation.

8.4 Human Resources:

None, apart from potentially increasing workloads.

8.5 Community Safety: None

8.6 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: Making Assets Work – May 2007
Communities Taking Control – 2006
Community Assets Fund Consultation Document - 2007
Building Third Sector Capacity - 2006

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