



Nottingham City Council

Community Asset Policy



Community Asset Policy

1. Background - Community assets

The City Council's Strategic Council Plan contains a number of strategic objectives aimed at improving the economic, social and environmental well-being of the City's citizens.

The way in which the council designs and manages its land and property estate can support and enable the delivery of these objectives. Nottingham City Council owns a number of assets that bring about a benefit to communities including community centres, leisure centres, museums, heritage buildings, parks and open spaces as well as assets that are occupied by community and voluntary organisations.

The management of assets by community and voluntary groups can deliver a number of benefits to citizens of the City. In many cases, the voluntary sector is best placed to host community facilities as their management and use can be more responsive to the needs and opportunities of communities. Assets held in this way can also play an important role in supporting and sustaining the third sector with facilities being managed by the people who regularly use them.

Furthermore, the Council is currently reviewing its use of assets particularly those in our neighbourhoods. There may therefore, be an increase in potential surplus assets that could be of community benefit and community asset transfers could be a viable option for the council in the future disposal of these assets as this may deliver mutual benefit to the council and the community.

This does however, need to be considered alongside the wider financial and strategic implications, to determine whether the benefits of using an asset in this way, outweigh the opportunity to generate a capital receipt through sale of the property, which can then be invested into the Council's capital programme or from future revenue generation to help deliver other statutory service responsibilities.

This community asset policy has therefore been developed to support the Council in delivering its strategic objectives when making future decisions in relation the management and transfer of community assets.

2. Why is a community asset policy required?

In the interest of transparency and to provide clarity, the Council has developed this Community Asset Policy (CAP) to set out the principles and approach to be undertaken in managing assets occupied by organisations working with and benefitting the community of Nottingham.

In addition the policy provides clarity around how future decisions regarding community asset transfers will be made.

The aims of the policy, therefore are as follows;

- To define when community asset transfer is appropriate

- To ensure the decision making process for community asset transfer is transparent and conforms with the Council's governance in relation to management of land and assets and its Asset Disposal Policy
- To apply a consistent approach to the assessment and process of transferring assets in the future, focussing on securing social, economic and environmental benefits of the asset
- To ensure the efficient use of assets to minimise cost

In September 2021 the Council approved its Asset Disposal Policy that sets out the framework that governs the Council's responsibilities and obligations when disposing of land and property assets. The CAP is designed to ensure alignment with the Asset Disposal Policy and the associated obligations.

3. What is a Community Asset Transfer?

Community asset transfer is the transfer of land or buildings from the council to a third sector or not-for profit organisation. Community asset transfer has the potential to achieve a number of benefits for both the Council and community organisations

Benefits to the Council

- Reducing costs and/or financial responsibilities
- Strengthening community links and delivering social, economic and environmental benefits
- Providing greater access to the community, increasing the flexibility of the offer of a particular asset

Benefits for Community Organisations

- Improving ties with the local community, increasing community participation
- Generating certainty and medium to long term stability
- Improving ability to fund raise, particularly for grant funding
- Supporting the development and delivery of community led projects

However, Community Asset Transfer can also present risks to both the Council and Community Organisations

For the Council

- Potential of not being able to demonstrate value for money when transfers are made
- Potential of a perception of unfair advantage for one group over another
- Potential for ongoing costs or liabilities

For Community Groups

- Increased risk management responsibility for an asset including health and safety
- Potential for the asset to become a financial liability for the recipient
- Inability to deliver the intended outcomes at the point of transfer

This policy has therefore been developed to enable the benefits to be delivered to both parties and to ensure that risks are appropriately identified and managed.

-.

Community Asset Transfer can take place in different forms including through:

- a management agreement
- a licence to occupy
- a short lease
- a long lease

A Community Asset Transfer usually involves a transfer at less than market value. The Council will no longer consider peppercorn or rental for free, however will accept a level of subsidy. This level of subsidy applied to the asset transfer, will be determined by the social, economic or environmental benefits generated by the transfer, the value of the asset and the organisations ability to pay a full market rent.

Under the Localism Act 2011, Charitable trusts, voluntary bodies and others can apply to councils to carry out services provided by the council and to keep community assets in public use by providing an opportunity for communities or parishes to nominate 'Assets of Community value' to be included on a list managed by the local authority. This comes under the Community Right to Bid and is often confused with Community Asset Transfer.

Community Right to Bid involves registering public or privately owned assets on a register and when they come to be sold, a moratorium on the sale (of up to six months) may be invoked, providing local community groups with a better chance to raise finance, develop a business and to make a bid to buy the asset on the open market. Further information on Community Right to Bid in Nottingham, can be found on the Council's website.

4. Which Organisations are Eligible?

Applications will be considered from Voluntary and Community Sector organisations.

The applicant must: -

- Be non-profit distributing – applications will not be considered from private companies, private individuals or other organisation not fulfilling the criteria. Any applicants that are profit making must reinvest any surpluses to further the social/community services offered from the asset.
- Be a Voluntary or Community Sector organisation - i.e. must be a legal entity which is not governmental or part of the statutory sector.
- Exist for community, social and/or environmental benefit of the community.
- Be appropriately constituted – for example a registered charity, a community interest company or a charitable incorporated organisation, a not for profit company or co-operative. Such constitution which can allow for the management/ownership of buildings and/or provision of services.
- Demonstrate good governance – by operating open and accountable processes, with adequate monitoring and financial management systems and be able to provide copies of the organisations accounts upon request.
- Have well defined community benefit objectives and demonstrate it has the necessary skills, capacity and resources to effectively deliver the services identified and manage the asset
- Have appropriate experience and knowledge of property management – and can demonstrate it understands health and safety issues and compliance with legislation/statutory requirements arising from the transfer and management of the asset.

- Demonstrate sustainability – the applicant will need to be able identify and maximise opportunities to ensure long term sustainability.

4. Assets Potentially Suitable for Community Asset Transfer

The asset must be in the freehold ownership of the Council and the Community Asset Transfer should assist in delivering the corporate aims of the Council.

5. Assets Excluded from Community Asset Transfer

The Council will not support Community Asset Transfer where any of the following apply:

- The asset is required for service delivery.
- The asset has been identified for capital receipt
- The asset is held or identified for revenue income.
- The asset could contribute to the Council’s housing development or strategic regeneration programme.
- Where there’s potential for an enhanced alternative use value (opportunity cost), either as an individual asset or where the asset may be part of an amalgamated site.
- Assets that are considered unfit for purpose and/or require significant investment will generally be excluded from the policy. However, exceptions may be made where the VCS organisation can secure the financial resources to bring the property back into repair and beneficial use.
- Proposals that only relate to part of an asset will generally be excluded from Community Asset Transfer. However, in exceptional circumstances the Council reserves the right to reconsider.

6. What is the Process for a Community Asset Transfer?

Although a number of steps are involved in Community Asset Transfer, there are three key stages for those individuals or groups who are interested: -

Stage 1 - Expression of Interest.

Stage 2 - Full Application and Business Case

Stage 3 – Agree 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 a speculative request to take on management responsibility for an asset.

It should be noted that if a speculative request is received, and if that asset is deemed suitable for Community Asset Transfer, then in accordance with this policy the opportunity will be advertised to the wider voluntary and community sector.

Where there are any existing agreements with VCS organisations for the occupation of Council property (land or buildings) and where these agreements are nearing expiry (and there are no automatic rights to a renewal tenancy under the Landlord & Tenant Act 1954), the occupying community organisation will be given an opportunity to extend, before it is advertised to the wider community sector. All lease renewals, will need to be considered in line with this policy.

The Council reserves the right not to extend or renew agreements that have been subject to this policy at the end of the agreed term at its absolute discretion.

Bidding organisations will be required to submit a business case, to demonstrate that they have the capacity to run the facility, and show how they contribute to the council's corporate objectives.

The Council may advise that a preliminary Expression of Interest be submitted by interested parties to enable shortlisting and to prevent unsuccessful organisations undertaking costly and abortive work..

5. What should the business case for community asset transfer contain?

Business cases should provide the following information;

- detailed evidence that use of the asset is financially sustainable over the life of the proposed tenancy and will not incur future financial liabilities for the council; the council will assist by making relevant information and data available on request
- full details of the services and activities to be provided from the asset including any partnerships or co-location plans with other organisations
- evidence of the management capacity and experience of the bidding organisation to utilise and develop the asset
- detailed evidence that use of the asset is financially sustainable over the life of the proposed tenancy and will not incur future financial liabilities for the council; the council will assist by making relevant information and data available on request
- details of the anticipated benefits that the asset will produce and how these will be measured and evaluated
- details of the type of asset transfer and lease terms sought and financial offer.
- evidence of support from council officers, councillors, other voluntary organisations, local stakeholders

Business cases will be assessed by an appraisal panel convened by the nominated officer within the Property Team and made up of representatives from relevant service departments, legal and finance.

The recommendation will be submitted to the Council's Corporate Asset Management Group for consideration. Any decision to proceed to approval will be subject to the Council's governance arrangements (scheme of delegation).

6. Maximising Community Benefit

To ensure that the property delivers maximum community benefit, the organisation concerned will need to ensure that the premises are used primarily for community-based activities that directly benefit the local community and the residents of Nottingham.

The community organisation must satisfy the Council that there is a clear community/social need and demand for their proposal that does not duplicate activities, services or facilities already provided in the local community.

The council will consider the specific needs of the third sector organisation, the condition of the asset and the requirements of any funders. The length of the lease will be based on:

- the business plan
- the capacity of the organisation to manage the asset

- financial capacity
- any future requirements for the asset by the council
- the condition of the asset.

Once granted, leases can be extended or restructured at a future stage, to meet the changes to the organisations activities or circumstances.

Community asset transfer leases will be accompanied by a service agreement that will define the expected benefits of the community asset including any requirement for use of the asset by local residents for locally organised activities or use as a polling station.

Leases will contain clauses that prevent the asset being assigned or sold on for unintended financial gain and the loss of the community agreed benefits.

Leases will also contain suitable clauses to ensure the return of the asset to the council if the terms of the service agreement are not met, or in the case of dissolution, insolvency or corruption.

The lease will define responsibility for maintenance and repairs, insurance and all outgoings on the property. Where possible the Council will seek to minimise its financial responsibilities through rental payments and/or transfer of repair/maintenance responsibilities.

7. Monitoring

The Council will ensure that prior to transferring an asset, monitoring arrangements are agreed that includes agreed benefits and service agreement targets. This will include both submission of reports and site visits and meetings.

In the event of the agreed community benefits and service targets not being met an improvement plan will be put in place with an option to terminate the agreement if targets remain outstanding.

Appendix 1 – Detailed Breakdown of Community Asset Process by stage

Stage One (week 1 – 8)

Once a building is identified as suitable for community asset transfer it will be advertised as open for Expressions of Interest.

This will be done by:

- Placing an advert on the council's website
- Placing an advert on Nottingham Property Plus website
- Advertising through community networks

An open day will be held at the building in this time for organisations to inspect the building.

During this window, the provided form can be used to submit an Expression of Interest in leasing the property.

Council officers will review all Expressions of Interest against identified criteria. Officers may ask for meetings with organisations to clarify points within the submitted information.

Organisations that satisfy the criteria for use will be informed by letter and invited to submit a more detailed business plan for their use of the property.

Stage Two (week 8 – 20)

The business case can be submitted in any relevant format but will need to reference:

- Organisational objectives and aims
- Evidence of the organisations previous impact and service delivery
- Specifics around the use of the building and what services/activities will be delivered from it
- Robust financial planning including details of any planned investment into the building and evidence of current financial capacity including details of any grants that the applicant group will be relying on.
- Evidence of the community need being address by the organisations plans and demonstrable community endorsement
- Evidence that new services and activities would not duplicate existing provision in the local area
- Detail of the evaluation processes which will be used to measure the outcomes of the buildings' use

During this business case development phase, organisations may request a meeting with council officers to discuss their draft plans before submission.

All business cases will be reviewed by council officers for suitability, against the criteria laid out in the Community Asset Transfer policy document and will reflect the social value to the city of each application.

Each organisation will be invited to discuss their application with officers and relevant professionals to elaborate on any points and review any questions.

If needed, legal and profession advice will be sought by officers at this stage.

Recommendations will then be made to the relevant decision maker in line with the Councils' constitution.

The successful group will be informed in writing.

Should approval not be awarded, the asset will be reviewed and, if appropriate, re-advertised for further expressions of interest.

Stage Three (week 20 – 32)

At the stage the Property Officer will work with the successful organisation to finalise the full content of the lease, the rent and the length of the lease.

When both parties are happy with the heads of terms in the lease, NCC will ensure the building is ready to be transferred and the organisation will be given the keys to the building.

Ongoing

Leases will be reviewed as a minimum every 5 years although shorter terms may be agreed at the lease stage.

Should there be any agreed outcomes and evaluation on the use of the building, the organisation will be expected to supply this to the council in line with the agreed arrangements. These may include usage statistics, service evaluations, or other key indicators and will be clearly laid out in the service level agreement.