

Executive Board – 21st February 2023

Subject:	Community Assets Policy
Corporate Director(s)/Director(s):	Sajeeda Rose, Corporate Director for Growth and City Development Frank Jordan, Corporate Director for Residents Services
Portfolio Holder(s):	Cllr. David Mellen, Portfolio Holder for Strategic Regeneration and Communications Cllr Neghat Khan, Portfolio Holder for Neighbourhoods, Safety and Inclusion
Report author and contact details:	Steve Sprason, Interim Head of Property, steve.sprason@nottinghamcity.gov.uk
Other colleagues who have provided input:	
Subject to call-in:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Key Decision:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Criteria for Key Decision:	
(a) <input type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 or more taking account of the overall impact of the decision	
and/or	
(b) Significant impact on communities living or working in two or more wards in the City <input type="checkbox"/> Yes <input type="checkbox"/> No	
Type of expenditure: <input type="checkbox"/> Revenue <input type="checkbox"/> Capital If Capital, provide the date considered by Capital Board Date:	
Total value of the decision: £0	
Wards affected: All	
Date of consultation with Portfolio Holder(s): 17th November 2022	
Relevant Council Plan Key Outcome:	
Clean and Connected Communities	<input type="checkbox"/>
Keeping Nottingham Working	<input type="checkbox"/>
Carbon Neutral by 2028	<input type="checkbox"/>
Safer Nottingham	<input type="checkbox"/>
Child-Friendly Nottingham	<input type="checkbox"/>
Healthy and Inclusive	<input checked="" type="checkbox"/>
Keeping Nottingham Moving	<input type="checkbox"/>
Improve the City Centre	<input type="checkbox"/>
Better Housing	<input type="checkbox"/>
Financial Stability	<input checked="" type="checkbox"/>
Serving People Well	<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):	
<p>The management of assets by community and voluntary groups has the potential to deliver benefits to the City, the City Council and the citizens of Nottingham. Asset transfer is the way in which that can be achieved, which is a voluntary process of disposing of assets to community organisations.</p> <p>Up to this point the Council has not had a formal Policy in place in this respect which has led to an inconsistent approach. This Policy proposal serves to fill that gap, will provide clarity of approach and transparency and also serve, in an equitable way, to deliver the commitments in relation to “community” leases contained in the Together for Nottingham, Recovery and Improvement Plan refresh 2022. It will support the stated requirements to ensure that asset values are maintained, community assets are fully utilised and that underutilised assets are made available for disposal within the context of achieving best consideration.</p>	

Does this report contain any information that is exempt from publication?

None

Recommendation(s):

1. That approval be given to the Community Assets Policy attached as Appendix 1 to this report

1. Reasons for recommendations

- 1.1 There is a need to make clear the council's approach to Community Asset transfer and the arrangements for dealing with such requests.
- 1.2 Adoption of the Policy supports delivery of the Asset Management requirements of the Together for Nottingham, Recovery and Improvement Plan Refresh 2022.

2. Background (including outcomes of consultation)

- 2.1 It is understood that the management of assets by community and voluntary groups has the potential to deliver benefits to the citizens of Nottingham. Asset transfer is the way in which that can be achieved, which is a voluntary process of disposing of assets to community organisations
- 2.2 Up to this point the Council has not had a formal Policy in place in this respect which has led to an inconsistent approach. This Policy proposal serves to fill that gap, and will provide clarity of approach and transparency and also serve, in an equitable way, to deliver the commitments in relation to "community" leases contained in the Together for Nottingham, Recovery and Improvement Plan refresh 2022. It will support the stated requirements to ensure that asset values are maintained, community assets are fully utilised and that underutilised assets are made available for disposal
- 2.3 In relation to the regularisation of existing community occupiers of Council premises the starting point is that a market rent will be proposed and with their taking on repairing responsibility. Market rents will then be discounted in an agreed amount to have regard to quantifiable community benefits delivered in accordance with Council Plan priorities.
- 2.4 In that context this Policy should be regarded as an intermediate step on the council's improvement journey and with the ultimate goal being a position where the community organisations receive grants for the management and operation of premises rather than reductions in rents paid.
- 2.5 The Council currently has c.67 assets occupied by community organisations of one form or another
- 2.6 The principal aspects of the Community Asset Policy now submitted for consideration covers the following:
 - a) **Background**-sets context including how community management of assets can support the delivery of the Council's Strategic Council Plan priorities
 - b) **Why is a Community Asset Policy required?**-sets reasons and aims, transparency and clarity and defining when asset transfer is appropriate to consider
 - c) **What is a Community Asset Transfer?** Defines a transfer and describes potential mutual benefits and risks to the parties

- d) **What organisations are eligible?** - defines the types of organisations that are able to apply and their required characteristics
- e) **Assets potentially suitable for community asset transfer-** describes required tenure of council asset ownership and requirement to assist in delivery of corporate priorities
- f) **Assets excluded from community asset transfer-**describes the operational and other classes of council asset that are excluded from consideration
- g) **What is the process for a community asset transfer?** Sets the headlines of the transfer process
- h) **What should the business case for community asset transfer contain?** –sets out the information to be submitted by the organisation to the council in support of their application for transfer.
- i) **Maximising community benefit** –sets the way in the asset should be used to deliver social benefits/value to satisfy community need. The Council will offer further guidance to applicants as part of the application/evaluation processes.
- j) **Monitoring**-sets out the requirement and need to set and monitor agreed service targets/outputs on an ongoing basis.
- k) **Appendix-detailed breakdown of the community asset process by stage** – provides further detail of the application process and timeline. Fine detail of application templates, evaluation models, related governance, social benefits assessment methodology etc. remain to be finalised. It would not be expected that detail of that nature would be included in a Policy document. The Policy is set to endure for the medium term whereas the application/evaluation methodologies etc. are likely to evolve in the short term as lessons are learnt in use.

2.7 Consultation

The following have been consulted in the preparation of the draft Policy now presented for approval and comments received have been incorporated as appropriate:

- The Chief Executive, and Corporate Directors and other senior officer colleagues in Growth & City Development and Communities, Environment and Residents Services
- Community Partners - NCVS, The Renewal Trust and Locality-responders were generally supportive and made a small number of helpful suggestions where more detail might assist, e.g. the application process timeline which is now incorporated into the draft.
- Overview & Scrutiny-initially reported to the meeting on 3rd August with answers to enquiries received reported back to the meeting of 12th October. The final draft Policy was referred to their meeting on 7th December and the following further recommendations received:
- To include within the policy an explanation of the difference between the Assets of Community Value (ACV) processes to provide clarity for Organisations and individuals, supporting by signposting of appropriate routes. Response: Reference to this is included at section 3 of the Policy. A link to the ACV process on the council's website has been included.
- To produce and publish a register of assets sold through special purchase arrangements. Response: The definition is much wider than community asset transfer and potentially includes any sale of an asset undertaken by the Council but where the potential numbers of sales

involved are likely to be very small. This request will be considered outside of this report.

- To review the process for measuring social value to ensure considerations are made as consistently as possible. Response: this work is in hand together with communities colleagues.
- To consider including a process for appealing against decisions within the Policy. Response: related statute and regulation has no requirement for an appeals process and Officers recommendation is not to include.
- The draft has also now been the subject of a public consultation exercise of a six week duration and which closed on the 24th October. Council Members were notified as part of the process.

Only two responses were received to that consultation as follows:

- 2.7..1 “I am concerned about short leases. If these organisations are to achieve external funding, then they invariably need longer leases to access these. Also the ongoing maintenance of these buildings is a budget issue and I’d want to see how this would be resolved if organisations are paying lower than market rent”.
- Response: the draft Policy does not define an exact lease length and it is felt this is right as each case needs to consider on its individual merits. The draft (at section 3) is sufficiently flexible to accommodate both short and longer term arrangements. Officers are fully cognisant of the fact that the requirements of funding bodies will be an influencing factor in this respect. The process looks to transfer repairing obligations to applicant organisations.
- 2.7..2 “The strategy should ensure that present property users have the first right to acquire the property and options for local groups and communities partnerships explored first. In the event that the asset is passed to a third party, there should be clauses to ensure that those who purchase the property keep the present users and local communities using the asset as the preferred renters to prevent loss of local community groups, partnerships and services”.
- Response: from a pragmatic point of view there is potentially merit in first dealing with current occupiers where assets are occupied. This would be subject to their fulfilling the eligibility and other criteria of the Policy. It may be the case that in a small number of instances arrangements might not be working exactly as they should be and corrective action is necessary. There may also be other instances where the Council determines that it is not appropriate for a particular asset to remain in community use. It would not therefore be appropriate to give the blanket assurance that is being proposed.
- 2.8 The final Policy document, attached as appendix 1, to this report is now presented to Executive Board for formal approval.

2.9 Governance and Decision Making

- 2.9..1 The evaluation in due course of submitted bids for asset transfer at both stages 1 and 2 of the process (see appendix 1 of the draft policy) will be undertaken by a panel comprising a cross section of appropriate officers from Property, Finance, Legal and Communities and with the panel being led by the Strategic Asset Manager. Other Council officer colleagues will be invited into individual evaluation processes when felt helpful.

- 2.9..2 Formal approval to individual transactions will be in accordance with the adopted scheme of delegation with relevant Portfolio Holders and Ward Members being kept advised at key stages of the evaluation and approval processes

3. Other options considered in making recommendations

- 3.1 The Council could determine to not adopt such a Policy. In that event the commitments contained in the Together for Nottingham, Recovery and Improvement Plan Refresh 2022 would not be delivered in a coherent way, neither would clarity be given to the community at large as to the way the Council intends to deal with such matters.

4. Consideration of Risk

- 4.1 In the review of existing occupiers there is risk that it may not be possible to agree terms of continuing occupation acceptable to both parties. The challenges will be in the determination of next steps. Having in place formal approved Policy and process should assist in mitigation.
- 4.2 There is risk that Policy adoption will raise the volume of applications by community organisations to the Council for transfers and expectations in terms of the pace at which they can be dealt with. Resource levels currently mean that only a very small number of applications could be progressed at the present time and which would need to be dealt with in a strict priority order.
- 4.3 A Management Agreement will sit alongside the lease of the premises which, amongst other things, will be used to set and monitor agreed community outputs. Provisions in the lease/management agreement will provide for the Council to regain possession in the event that the community use ceases or is not delivered to agreed expectations.
- 4.4 With any new lettings of vacant property the process will ensure completion of both the lease and management agreement prior to the tenant being able to take occupation. In the event of an inability to agree suitable renewal terms of occupation with any existing occupiers, and/or an unwillingness to complete lease or management agreements, the council may need to take appropriate steps to draw the occupation to a close in order to mitigate its financial exposure. It is generally an unacceptable position for third parties to be in occupation of any Council asset without there being a formal basis of occupation in place.
- 4.5 It will be intended to review the effectiveness of the Policy within a 3-5 years' time horizon.

5. Best Value Considerations, including consideration of Make or Buy where appropriate

- 5.1 It is considered to be good practise to deal with the transfer of assets to community organisations in order to achieve added social value and benefit to local communities where appropriate. Individual applications will be subject to a robust assessment process.
- 5.2 There will also be a need to consider the Council's ongoing requirement for the generation of capital receipts, and the contents of the Council's adopted Disposal Policy, on a case by case basis in determining the suitability or not of an asset for potential community asset transfer.

6. Finance colleague comments (including implications and value for money/VAT)

There are no direct financial implications of this policy but the clarity provided by having the Community Assets Policy will be beneficial to all parties and support delivery of the Councils Asset Management requirements of the Together for Nottingham, Recovery and Improvement Plan Refresh 2022.

Susan Tytherleigh – Strategic Finance Business Partner – 8th December 2022

7. **Legal colleague comments**

The adoption of a Community Assets Policy will give clarity on how assets covered by it are dealt with by the Council. This is another clear step to improving the Council's governance arrangements and to that extent adoption of the policy is supported.

Malcolm R. Townroe – Director of Legal and Governance – 9 December 2022

8. **Other relevant comments**

Strategic Assets and Property

The adoption of the Policy will assist in giving clarity and transparency on how assets covered by it are dealt with.

Simon Yates – Interim Strategic Asset Manager-12th December 2022

Community Protection

The report and draft Policy have again been reviewed and there are no further comments.

Andrew Errington – Director of Community Protection- 8th December 2022

9. **Crime and Disorder Implications (If Applicable)**

9.1 None arising out of the contents of this report

10. **Social value considerations (If Applicable)**

10.1 The value of social benefits to be potentially generated will be a primary consideration in evaluating applications for community asset transfer

11. **Regard to the NHS Constitution (If Applicable)**

11.1 No issues arising

12. **Equality Impact Assessment (EIA)**

12.1 Has the equality impact of the proposals in this report been assessed?

No



An EIA is not required because: there are no direct implications arising out of the contents of this report. Going forward the need for an EIA will be considered on a case by case basis when individual asset transfers are being considered

13. **Data Protection Impact Assessment (DPIA)**

13.1 Has the data protection impact of the proposals in this report been assessed?

No



A DPIA is not required because: there are no implications arising out of this report

14. Carbon Impact Assessment (CIA)

14.1 Has the carbon impact of the proposals in this report been assessed?

No



A CIA is not required because: there are no implications arising out of this report

15. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

15.1 None

16. Published documents referred to in this report

16.1 Appendix 1-Community Assets Policy document