

Dorset Council - Community Asset Transfer Policy

Introduction

The Dorset Council Community Asset Transfer Policy seeks to recognise and maximise the benefit of devolution of assets to local communities, particularly to Town and Parish Councils. This policy supports the delivery of this devolution by providing clear guidance and support for applicants. Dorset Council aims to increase local control over assets, enabling assets to further meet the needs of local communities.

Dorset Council has responsibility for land and buildings through various means: -

- Owned Assets – Dorset Council hold either a freehold interest or long lease (virtual freehold, usually in excess of 100 years) of the asset.
- Dedicated Assets – Dorset Council has a responsibility to maintain land due to a historical contractual obligation but does not have the freehold ownership for example areas of public open space or play areas under planning agreements.
- Statutory Responsibility – Dorset Council has the responsibility for maintaining assets and provide services under legislations, for example highway land or closed burial grounds.

The disposal of assets by Dorset Council broadly fall under two types: -

- Market Sales – where ‘best consideration’ is obtained widely interpreted as the best price/market value.
- Disposal at less than best consideration – this could either be a transfer for a nominal sum or reduced purchase price but will certainly be lower than the market value.

This policy will be reviewed every two years.

What is a Community Asset Transfer?

Community Asset Transfer policy provides the process by which community groups and organisations can apply to the council to manage an asset locally. A Community Asset Transfer would be classed as a disposal at less than best consideration (i.e. transfer for a nominal or reduced purchase price – less than market value).

In order for an asset to be considered for transfer under Community Asset Transfer Policy it would need to provide one or more of the following benefits;

- The transfer of the asset will provide social, economic, or environmental well-being benefits to the local community
- ‘Tidying up’ exercise transferring incidental pieces of land to local control
- The asset has the potential to provide for a community facility with the applicant has demonstrated they have the skills, drive, and access to resources to deliver
- The transfer of the asset will enable the continuation of a service or use of a facility to the local community that Dorset Council is no longer able to provide
- A community partnership can be entered into based on public access to and use of an asset
- It is believed that the applicant would be able to secure grant and/or have access to funding streams not available to Dorset Council.

How Community Asset Transfers fit within National Policy

The Quirk Review “Making Assets Work” 2007 which outlined the potential benefits of local ownership and management of public assets where appropriate.

Localism Act 2011 which built on the concept of local communities taking more control of assets in their area.

Local Government Act 1972 s123 sets out that Local Authorities must obtain best consideration for all disposals. The General Disposal Consent 2003 gives permission for Council’s to dispose at less than best consideration provided the value foregone is less than £2m (in capital terms) and the transaction benefits the economic, social, or environmental well-being of the area. If the value foregone is greater than £2m approval from the Secretary of State is required.

Other legislation or guidance documents that Dorset Council will need to be mindful of when assessing any application which includes but is not limited to;

- Subsidy Control Act 2022
- Local Government Finance Act (1988)
- RICS Valuation – “Red Book” valuation defines market value when considering a disposal.
- Dorset Council Procurement Framework

Community Asset Transfers and Dorset Council’s Strategic Objectives

Dorset Council’s Plan 2022-2024 ([Dorset Council Plan - Dorset Council](#)) support the principles behind this Community Asset Transfer policy. Dorset Council values state ‘we work together with our communities and our partners to make things happen’ this feeds into the principle of local communities having control over appropriate assets and working with organisations to ensure services and benefits are not lost.

Dorset Council’s long-term vision is underpinned by a transformation plan which focuses on six priorities one of which is ‘making the best use of our assets and leading economic growth.’

Dorset Council has 5 key priorities

- Protecting our natural environment, climate, and ecology
- Creating sustainable development and housing
- Driving economic prosperity
- Creating stronger, healthier communities
- Becoming a more responsive customer focuses council

This policy seeks to assist in achieving these goals.

This is separate to Assets of Community Value which allows local communities to identify and nominate land and buildings that are important to them to be included on a list of assets of community value (ACVs). For more information on this see [Assets of Community Value - Dorset Council](#).

Benefits of Community Asset Transfers

Dorset Council wants to achieve community empowerment by ensuring that assets are locally controlled for the benefit of the local community (Quirk Review 2007). Community Asset Transfer can protect local services, allows delivery of social and economic benefits that otherwise might not be available through other means, and can provide local people with a meaningful stake in the development of their community.

Community Asset Transfer Process

Community Asset Transfers (CATs) involve the transferring of land, buildings, or other property assets (referred to as assets throughout this policy) from Dorset Council to a Town or Parish Council or community organisation in order to achieve public benefit.

If CAT (Community Asset Transfer) application is successful, then one of the following types of transfer will be recommended on a case-by-case basis.

- Short Term Leasehold – 12-month management agreement to 7-year leases
- Longer Leasehold – Lease of more than 7 years
- Freehold transfer – asset permanently transferred

Freehold transfer will only be recommended in exceptional circumstances. Leases longer than 7 years will normally only be granted to organisations that have governance in place to prevent distribution of assets to members (asset lock) and will contain clauses that prevent the asset being used for other than community benefit. Transfer documents will contain clauses to ensure the return of the asset to Dorset Council if the asset is no longer used for Community benefit.

If an official transfer is not deemed appropriate the CAT application will be refused but Dorset Council may recommend one of the following types of agreements if they would like to support the proposal.

- Community Use Agreement – protects community use of an asset.
- Management Contract – leasing asset along with contract and service specification
- Service Delegation Agreements – These are usually used where there are a number of small non-strategic assets.

Assets will be transferred in their current condition with no capital or other funding provided as part of the transfer and all future costs to be covered by the organisation taking on the asset. No works or funding will be provided to adapt buildings or assets to be appropriate for the use proposed as part of the Community Asset Transfer application. The Council will as standard include conditions on any transfer to protect future community use of the asset this could include but not limited to; restrictions, preferential arrangements for Dorset Council use, right of first refusal on buy back, use of reversionary mechanisms etc. No rents or charges will be applied for use by Dorset Council should there be any potential ongoing or temporary space requirement by the Council, provided the requirement for such space is not unreasonable and does not exceed 25% of net internal area or of the available hours.

For assets to be available for transfer via this process they must be owned by Dorset Council. Dorset Council reserves the right not to make available assets for CATs for reasons including but not limited to:

- Assets that are used operationally by Dorset Council to deliver council services (e.g. school, care homes, etc)
- Assets that are part of a wider area of land owned/controlled by Dorset Council

- Assets that have the potential for redevelopment either with or without Dorset Council land
- Assets that provide or have the potential to provide significant income for Dorset Council
- Transfer is to an individual or business and it is to be used solely for commercial purposes.
- Where there is a more appropriate route to achieve the outcomes desired
- If there is a statutory responsibility and any transfer would also require the transfer or undertaking of any service responsibilities

Principles of the CAT policy;

- Being transparent in our process for community asset transfers including timescales and decision-making processes and providing information online
- Providing timely information to applicants
- Assessing asset transfer requests fairly through the application of this policy

Eligibility Criteria

The CAT policy is open to the following types of organisations.

- Parish or Town Councils
- Voluntary & Community Sector Organisations
- Charities

These organisations must be;

- Legal entities
- Non-profit making
- Have community and/or social objectives.
- Be located within the boundaries of Dorset Council area or can demonstrate that they provide services within the area to residents.

The asset must remain open to the wider public. This does not disqualify special interest proposals or groups; however, evidence must be provided of how the asset will be used in an inclusive way.

Dorset Council will not consider applications from organisations which are political or with political affiliations, organisations engaged in supporting candidates for political office, individuals or businesses who intend to primarily run the service or use the asset for commercial gain.

Assessment Criteria

The applications will be assessed against the following criteria areas;

- Community Benefit
- Local Control
- Sustainability
- Governance
- Financial Standing
- Ability to maintain and manage the asset
- Commitment

Application Process

The CAT application is a two-stage process;

1. Expression of Interest Application Form
2. Business Case

Stage 1: Expression of Interest Application Form

This sets out the following information which will enable Dorset Council to make an initial assessment on whether the asset is potentially suitable for transfer and if the organisations and proposed use meets the eligibility criteria.

- Who is applying for the CAT
- Information on the organisation
- What asset is being applied for
- Basic details on the asset (Land Registry No, location plan)
- Proposed use of the asset
- Benefit of the asset being transferred

Dorset Council will then carry out initial checks including but not limited to;

- Is the asset owned by Dorset Council and any restrictions on ownership?
- Is the asset potentially eligible for CAT?
- Is the organisation eligible for CAT?
- Does the proposed use meet the criteria of CAT policy?

See appendix 3 for more information on how the Expression of Interest Application Form is assessed.

The applicant will be notified whether their application has passed stage 1 within two months of their application being received. If the application did not pass stage 1, they will be provided with the reasons behind this decision. If the application passes stage 1, they will be asked to prepare a business case as stage 2 of their application.

There is no charge for this initial expression of interest.

Stage 2: Business Case

There is a template business case and guidance (appendix 2) which we would ask applicants who pass stage 1 to complete so we can fully assess their application for CAT. This will set out how the asset will be used, the social, economic, environmental and well-being benefits of the asset being transferred, ability to maintain and manage the asset, etc. A robust business plan is key for organisations to demonstrate their ability to successfully operate an asset and deliver the proposed community benefits.

The Business case will be assessed on how it will benefit the community and Dorset Council will liaise with local Councillors and other departments within Dorset Council for their views on the proposed transfer. Dorset Council will also have to value the asset. The application will be assessed in accordance with the assessment criteria and a recommendation report will be produced which will set out the details of the proposal and make recommendations regarding whether a transfer should be made, what type of transfer and any conditions recommended. The Council may need to balance the competing interests for community groups and an assessment will need to be made as to the option that will deliver most sustainable benefit to the local community.

In order to help organisations complete the business case we can, if requested and appropriate, supply relevant information that we hold i.e. maintenance costs, value of asset, any condition reports etc.

This recommendation report will be taken through the Council's usual property disposals decision making process in line with the scheme of delegation which will vary depending on the value of the asset being transferred. This means that any assets valued over £500k will need to go to cabinet for sign off if asset transfer is recommended. Assets under £500k will go to the relevant Asset Management Group monthly meeting where senior managers from multiple departments will approve or refuse the application.

Dorset Council reserve the right to charge for the Business Case Application to cover the cost of valuation of the asset and officer time and resources to assess the application including legal work. The level of the fee will be indicated at the commencement of Stage 2. If your application is successful, you will also need to pay the Council's legal fees to transfer the asset which will be between £750 and £1500. Organisations will be responsible for their own due diligence in relation to taking on any asset.

If we do not receive a business case within six months of an applicant being notified of their Expression of Interest ((EOI) stage 1 application) being successful we will close the application. We aim to assess business cases within three months of receiving them. However, if the asset is high value, it may take longer than this to make its way through the approvals process (Cabinet). Applicants will be kept informed on the status of their application and the recommendations being presented.

If an application is successful and transfer is agreed, then this will be actioned by Dorset Council Estates & Legal teams. Target timescale for this to be 12 weeks from decision however this will depend on the type of transfer and the legal work required.

Ongoing Reviews

The council reserve the right to undertake ad hoc reviews to ensure the community benefits are being delivered as per the bid submission and reserve the right for assets to revert if the proposed benefits do not materialise.

Appeals

All applicants are entitled to appeal against any decision made through the CAT process if they feel that a decision has been unfair and/or there has been a breach of policy. Appeals should be made in writing via the Complaints Team stating the issue or referencing the part of the policy that has been breached, within 28 days from the date decision was made. Appeals will be managed in line with the Council's complaints procedure.

Policy Review

This policy should be reviewed and updated to ensure it stays aligned with the Council's priorities in the future. Anticipate review required whenever a revised or new Dorset Council Plan is launched.