

TMBC Community Assets Transfer Policy

1. Introduction

The Community Assets Transfer Policy aims to provide clear guidance when opportunities arise for the transfer of land or buildings in the ownership or local management of the Borough Council to a Voluntary and Community Sector (VCS) body. For the purposes of this policy, these bodies are limited to the following and must be located in the Borough of Tonbridge and Malling:

- (1) Town or Parish Council
- (2) Fully Constituted Community Group
- (3) Charitable Trust
- (4) Community Interest Company
- (5) Charitable Incorporated Organisation (CIO)

In addition, any VCS body should be non-profit distributing and must reinvest any surplus funds to further its social aims and community benefits.

2. Objectives of an Asset Transfer

The Transfer of Assets held by the Borough Council to a VCS will aim to achieve one or more of the following outcomes:

- To maintain and improve the viability of the asset transferred
- To allow local management of the asset and meet the needs of the local community it serves
- To facilitate the delivery of support services in areas of need
- Promote local involvement in the management of the asset and encourage a wider range of residents to participate in the delivery of those services
- Promote local volunteering opportunities
- to generate financial savings and value for money for the Borough Council

- To encourage the further development of the asset as a community facility.

3. Proposed Uses for the Asset being Transferred

Assets owned by the Borough Council will be transferred if this meets with the Council's priorities and that there are clear benefits to both the Borough Council and the VCS arising from that transfer.

4. Requirements to Enable a Transfer of Major Assets

For more major assets such as larger buildings and facilities, transfers of Assets to a VCS body, either via a lease or full ownership transfer, will be considered where that body is able to satisfy the Borough Council that the following requirements can be met:

- (1) that there is a fully worked up and credible Business Plan which has been approved by the Borough Council and that appropriate insurances are in place;
- (2) The VCS Body can demonstrate that it has the skills and experience to run the Asset and/or is able to demonstrate that sufficient external support to operate the Asset in its place;
- (3) That, if necessary, the VCS has appropriate policies and permissions in place to operate the Asset (including health and safety, safeguarding, security measures etc) and that there are appropriate decision making processes in place;
- (4) That the VCS body agrees to the Borough Council retaining the ability to have influence over the future use of the Asset in the event that it is no longer needed for community use;
- (5) That the VCS body agrees that the Asset will revert to the ownership of the Borough Council in the event that the VCS body taking over the asset ceases to operate.
- (6) That the VCS body agrees to any specific terms and conditions set by the Borough Council in relation to the future management of the Asset.

The Borough Council will ensure the above requirements are met via a Service Level Agreement with the relevant CVS body.

5. Charges

Any rent charged under the lease will be determined on a case-by-case basis and may range from nominal (£1 per annum if demanded) up to a full market rent. The assessment of rent will take account of the nature of the activities taking place at the Asset, and any financial and community benefit considerations.

The lease will normally contain a rent review clause that allows the Council to review the rent after the first three years of the term and thereafter at five yearly intervals in the event that a commercially viable and profitable operation is taking place from the asset.

6. Heritage Assets

Heritage assets are defined as:

“A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing).”

In the case of heritage assets, the VCS body must comply with the statutory duty to keep the asset in repair for the duration of the lease term. The Borough Council will normally grant a lease of no more than 25 years in respect of heritage assets.

Where the asset has no alternative use, an internal valuation will be carried out. In this case the market value will be based on its existing community use only which in most circumstances will be low. In certain circumstances there may be no need for a valuation if it does not involve the transfer of any benefits or liabilities to the Borough Council.

7. Valuations

For the transfer of more major assets, a valuation of the asset will be carried out. In the case of certain assets that may have an alternative non-community use (resulting in a potentially higher land value) an independent valuation will be obtained that sets out the “under-value” – that is the difference between the restricted market value (of the asset in community use and subject to the proposed terms of transfer) and the unrestricted market value (of the asset in some alternative use without any restrictions imposed by way of proposed transfer terms).

8. Transfers of Minor Assets

For transfers of more minor assets, for example, small areas of land/open space or smaller structures, the Borough Council encourage the transfer of the asset where there is a joint benefit for the Council and the CVS. Whilst circumstances may vary in each case, the preference of the Borough Council will be to transfer such smaller assets via a direct change of ownership.

9. Determining Applications for Asset Transfer

VCS bodies interested in taking on an asset transfer must first register the interest in writing to the Borough Council’s Director of Central Services. The Director of Central Services will make an initial assessment of the interest and, if there is scope to consider this further, a formal application form will be sent the applicant.

From time to time, the Borough Council may approach a VCS with a proposal to transfer an asset held by the Borough Council to the VCS.

In both circumstances, formal agreement by the Borough Council’s Cabinet to the proposed transfer will be required.