



**Petersfield Town Council
Community Asset Transfer Policy**

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1. INTRODUCTION

The council is the closest tier of local government to the community and considers that under almost all circumstances, it is appropriate for the freehold ownership of public and community assets to be held in the name of the Council. It does, however see other forms of community asset transfer to be a positive opportunity to encourage and strengthen long term partnerships with all types of community organisation.

The council believes that through such asset transfer, local groups will be able to gain access to and secure other sources of additional investment, develop innovative and creative partnerships and thus secure the future of assets into the longer term.

2. WHAT IS COMMUNITY ASSET TRANSFER (CAT)?

The council owns and manages a wide variety of property assets including land and buildings. The council defines a Community Asset as a building and/or land that has a community use and from which a community based activity or service is delivered. Asset transfer means moving the responsibility for the ownership, management and running of assets from the council to a community, voluntary or faith based organisation. Transfers are therefore done on a full repairing, maintenance and insuring basis. Community asset transfer has the potential to achieve a range of key objectives from promoting civic renewal, community cohesion, active citizenship and improving local public services to tackling poverty and promoting economic regeneration

CAT relates primarily to long leasehold (25–125 years) or freehold arrangements with community, voluntary or faith based organisations. This will apply either where the council owns the freehold or has a long lease that can be transferred to another organisation. The terms of transfer to an organisation will be negotiated on a case by case basis. This strategy applies to council owned assets where community based services and activities are offered, or have the potential to be, for the benefit of local residents. The council will not generally consider applications for transfer of land used as public open space. The council will not transfer properties to be used solely for religious activities. The council also retains the right not to transfer assets that have been identified as potentially having significant capital receipt.

The council recognises that in some cases, buildings that are available for CAT may not be vacant and a transfer may take place with a sitting tenant. In such situations details will be discussed on an asset by asset basis in liaison with the existing tenants, relevant council departments and other stakeholders (where applicable).

3. COMMUNITY ASSET TRANSFER POLICY

Our policy is based on our commitment to community empowerment and supports the development and sustainability of a thriving community and voluntary sector. This policy sets out the principles and process we will use to manage applications for the transfer of community based buildings or land to a voluntary, community or faith organisation.

This policy will take into account relevant legislation that relates to the transfer of land or buildings at less than market value, provided the transfer is likely to contribute to the “promotion or improvement” of the economic, social or environmental well-being of the area, and the difference between market value and actual price paid is less than £2 million (If the difference is more than £2

million then the request will require ministerial approval). All transfers will ultimately require the approval of Council.

It is recognised that community asset transfer come with risks and liabilities to both the council as well as community, voluntary and faith based organisations. Therefore, the process must include a robust framework to assess and manage risks so that all parties can make informed decisions. The Council's policy to enable the transfer of assets is based on the following principles:

- Transparency in process, timescales and decision making
- Partnership with community, voluntary and faith organisations and encouragement of collaboration between groups
- Inclusivity of provision so that the assets remain genuinely open and accessible to all sections of the community irrespective of their faith, culture, gender, sexuality or religion
- Evidence based rationale for the transfer of assets – each proposal will be based on individual merits
- Any proposed transfer of asset must promote social, economic or environmental wellbeing and support the aims and priorities of the council
- Asset transfer will be in exchange for the agreement by the community, voluntary or faith based organisation to deliver agreed benefits to local people
- Existing tenants will be given 'first right of refusal'
- In the event that the community, voluntary and faith organisation ceases to operate or becomes insolvent, the asset is to be returned to the Town Council in a good and serviceable state of repair for the same consideration as that paid at the time of original transfer
- The community, voluntary and faith organisation shall not be permitted to dispose of the asset for any form of gain – financial or otherwise
- The tenant will be permitted to hire out space within the asset to other community groups as long as the use reflects the permitted user clause and use is regulated under an ad hoc hiring agreement and does not result in the creation of a landlord and tenant relationship.
- Assignment of the asset is not permitted
- Under the terms of any lease, the tenant will be expected to assume responsibility for the full running costs of the building, including repairs and maintenance. It may be appropriate to limit repairing obligations within the lease to a Schedule of Condition which will record the condition of the building at the time the tenant takes over responsibility. The tenant will commit to maintain in no worse condition. The Town Council will prepare the schedule but the cost will be the responsibility of the prospective tenant if they subsequently withdraw from completing the lease.
- The Council will typically grant leases which are contracted out of the Landlord & Tenant Act 1954 Part II which will not provide the tenant with automatic rights to renew the lease at the end of the term. However, the Council may consider granting a new lease if the property is still surplus to the Council's requirements but a new business case will be required to be submitted in accordance with the Council's Asset Transfer Policy applicable at that time

- The Asset is to be returned at lease expiry in good tenantable repair in accordance to the lease terms and all alterations removed (unless the landlord states otherwise) and any damage made good
- Disposals at less than best consideration will follow relevant legislation, Government guidance and the Royal Institute of Chartered Surveyors (RICS) guidance and state the best consideration that would otherwise have been received.

4. OUTCOMES

The council wants to achieve the following outcomes through community asset transfer:

- Community empowerment and benefits to the wider local community
- Capacity building through the use of local skills, experience, knowledge and time
- Retaining valued local provision, thus improving local services
- Delivering local services that address local needs through community led and community controlled assets
- Extending the use of a building or land
- Value for money and the ability to draw in other sources of funding not available to the council
- Social enterprise and social wellbeing, including community cohesion
- Financial viability, long term sustainability and external investment
- Delivery of council objectives through other partners
- A stimulus to partnership working

5. AIMS

The council recognises that the increasing emphasis on community resilience means that it is even more important to work closely in partnership with local community, voluntary and faith based groups that can help us achieve the outcomes of delivering quality services, tackling poverty, protecting vulnerable people and encouraging growth and sustainability. Our aims are to:

- Encourage and support the retention of local facilities which are used for a variety of social, community and public purposes on the basis that we are satisfied that the business case for such a transfer is financially viable and sustainable in the long term
- Maintain local public facilities through community management

6. COMMUNITY ASSET TRANSFER CRITERIA

In the interest of supporting a vibrant local community and voluntary sector, the council will only consider the transfer of assets to local organisations operating locally. The transfer of assets may be to either long established, stable and secure formal organisations or newly formed community based groups provided they can demonstrate they have the necessary expertise and experience to manage the asset. Each application will be considered on a case by case basis.

The council will consider transferring assets in the following circumstances:

- They must be in the ownership of the council or have a long lease that can be transferred to a third party
- They are currently delivering community based services where there is a demonstrable need for the asset and associated services to continue

The council will not consider applications for transfer in the following circumstances:

- Assets which have been identified as having a potential significant capital receipt, or where a significant amount of revenue income would be lost unless the Council deems the social, environmental and/or economic benefits match/outweigh any potential financial loss
- Assets which have been identified as being required for strategic, planning or redevelopment/regeneration reasons
- Transfers to individuals or businesses to be used **purely** as a vehicle for commercial ventures. This does not include, for example, charitable organisations with trading arms, where profits are given back to communities.
- Transfers to individuals
- Where transfers contravene State Aid or procurement rules
- Assets which may be used solely for religious or political purposes/activities.
- Assets which would result in a loss of public accessibility or utilisation and prevent the Council from providing desired services to the community

This is to ensure that any successful transfer is sustainable, will be of benefit to local communities as well as the voluntary, community or faith organisation and will instil long term reassurance for the community which it serves.

The final decision on any transfer will be taken by the council in line with its policies applicable at the time.

6.1 Who can apply?

Community, voluntary or faith organisations who can demonstrate that they are or will be:

- Properly constituted with strong and open governance arrangements
- In a position to hold property
- Able to demonstrate strong financial and performance management and accountable processes
- Non-profit making and exist for community/ social/ environmental/ economic benefit, whilst recognising that they may have a business element to how they operate, such as a community café. However, this type of business and financial gain will not be the main driver and it will not distribute any financial surplus to owners or members but apply it to serving its core community aims and objectives
- Open to and demonstrate an inclusive approach to members of the wider community

6.2 Assessment Criteria

Any application received will be assessed. Applicants must demonstrate how they meet the following criteria:

- Clear benefits to the council, its aims and priorities, the community based group and the wider community to justify the subsidised transfer
- Demonstrate that the asset will continue to be used to support local community based services and activities
- Strong and robust governance arrangements (including how local people will be involved in decision making in relation to the building/land and its use)

- Evidence of a track record in delivering services and/or managing property (if a new group evidence of this track record linked to management committee members and/or staff and volunteers)
- Have in place a robust and sustainable business plan or show the willingness to create an acceptable plan within a specified time frame before the building is transferred. This business plan will need to:
 - Demonstrate a realistic approach to managing and running the facility
 - Identify sources of finance that asset transfer will release or attract, future investment in and maintenance of the asset
 - Include a needs assessment
 - Describe the planned outcomes and social, economic and environmental benefits to result from the asset transfer
 - Identify liabilities and how these will be addressed
 - Provide evidence of the capability and skills within the community based group to manage, repair and maintain, insure and sustain the asset transfer including a capacity building plan and how this will be delivered
 - Outline how much space is required and its potential usage, how services and activities will be 'joined up' with those of other organisations to maximise the efficient use of the asset by providing new and innovative services, which may be linked to current council provision
 - Provide evidence of compliance with legislation and regulatory controls such as equality legislation, child and vulnerable adult protection, health and safety, employment and plans for regular monitoring and evaluation

6.3 Risk Management

It is accepted that there are a number of risks which may arise from asset transfer. The proposals must show that the group has considered the key risks and how they will be managed, including:

- Potential for a negative impact on community cohesion
- Potential loss of existing community services or facilities
- Capacity of recipient to deliver promised services/outcomes
- Control of asset by unrepresentative minority
- Conflict with other legal, regulatory constraints
- Potential for ongoing council liability
- Financial sustainability
- Lack of value for money
- Conflict with other funders
- Potential unfair advantage for one group over another

6.4 Basis for the Asset Transfer

- Long term lease (25 - 125 years)
- Freehold transfers will only be considered in exceptional circumstances that must be justified by the applicant and the reversion clauses below continue to apply
- Any property transferred via its freehold cannot be sold by the organisation or charged to secure debts

- The organisation will be responsible for all costs such as, running costs, repairs and maintenance, compliance with statutory inspections, health and safety regulations and other legislation
- The asset will revert back to the council in cases of bankruptcy, corruption, non-payment of rent, non-performance, ceasing to continue in operation, a breach of the agreement and if the organisation wants to return the asset
- The organisation cannot transfer the asset on to a third party
- All legal costs will normally be the responsibility of the community, voluntary or faith organisation

6.5 Community Asset Transfer Process

Any community asset transfer (CAT) process works best when all parties are open, flexible and accessible. The process itself is about being of mutual benefit to all parties involved and the main aim is to achieve a joint investment in a goal that is shared. If there is any part of the process which the applying organisation doesn't understand, then seeking clarity at an early stage is encouraged.

The process may be initiated in two ways:

- By a community, voluntary or faith organisation approaching the council with a proposal, in which case the council will assess the initial request to determine whether the asset is suitable for transfer. Should the asset be deemed suitable to transfer, it will be promoted as being so in order to ensure an open and transparent process.
- By the council identifying assets as being appropriate to transfer, in which case the council will invite community, voluntary and faith organisations to submit proposals. This will be based on a proper review of assets and an agreement that they are suitable for transfer.

6.6 Monitoring

Following a successful transfer the council will reserve the right to undertake annual monitoring to ensure that the intended outcomes continue to be delivered.