

<b>Cabinet</b>	
<b>Meeting Date</b>	5 November 2014
<b>Report Title</b>	Review of Community Asset Transfer Policy
<b>Cabinet Member</b>	Cllr Mike Whiting Cabinet Member for Localism
<b>SMT Lead</b>	Mark Radford
<b>Head of Service</b>	Anne Adams
<b>Lead Officer</b>	Anne Adams
<b>Key Decision</b>	No
<b>Classification</b>	Open
<b>Forward Plan</b>	Yes
<b>Recommendation</b>	1. That Cabinet agrees to adopt the revised Community Asset Transfer Policy.

## **1 Purpose of Report and Executive Summary**

- 1.1 The purpose of this report is to set out the revised Community Asset Transfer Policy. It explains the reasons for the changes and recommends adoption of the revised version.

## **2 Background**

- 2.1 The first version of the Community Asset Transfer Policy was approved by Cabinet in August 2009. It was developed out of a need for a clear framework within which to structure the transfer of community assets, the principle of which was beginning to emerge as a corporate priority for the Council.
- 2.2 The policy was revised and updated in April 2013 following comments made by the Council's external auditors in their 2011-12 Annual Governance Report. This is covered in more detail in Appendix I.
- 2.3 Since the April 2013 update a number of asset transfers have taken place that have highlighted the need for some further amendments and clarifications.

## **3 Proposals**

- 3.1 The proposed changes to the policy fall into the following key areas:

- Clarification as to when the policy should be applied,
- Links with other policy documents,
- Forms of tenure for asset disposals,
- Rent and rent reviews,
- Arrangements for heritage assets,
- Valuations, and
- Decision making process.

3.2 The proposed changes are all set out in the report to Policy Development and Review Committee (PDRC) on 3 September which is attached as Appendix I to this report. The proposals were discussed by the Committee and they made the following recommendations to Cabinet:

*Resolved: That the above comments from the Committee be submitted to Cabinet to consider, specifically that paragraph 3.14 be amended so that rent reviews were carried out every five years only in the event that a commercially viable and profitable operation was being carried out from the asset and that paragraph 3.19 be removed to revert back to Community Asset Transfers being decided by Cabinet, not delegated to individual Cabinet Members as proposed in the report.*

3.3 The following further revisions to the draft policy have been made as a result of the recommendations of PDRC:

- Whilst in most cases a community asset will transfer on the basis of a low or nominal rent, it is recognised that there could be circumstances in which the financial circumstances of the organisation change over time and a commercially viable and profitable operation could be taking place from the asset. In these circumstances, the Council may wish to reserve the right to review the rent. A rent review clause has therefore been inserted in the policy which allows the Council to review the rent after the first three years and thereafter at five yearly intervals *in the event that a commercially viable and profitable operation is taking place from the asset.*
- The current procedure is for all community asset transfers to be decided by Cabinet. Although few transfers are key decisions, most decisions cross two portfolios and therefore need to be decided by Cabinet for that reason. However, if a decision relates to only one portfolio then it could be taken by the Cabinet Member for Localism in consultation with the Cabinet Member for Finance. It is therefore proposed that future community asset transfers may be decided under the delegated Cabinet member process unless:
  - It is a key decision,
  - It cuts across two or more Cabinet member portfolios, or
  - The Cabinet Member refers the decision to Full Cabinet

3.4 A further suggested change is in relation to the impact of VAT on rent payments. Due to the complex nature of VAT and the importance of ensuring the most economically

advantageous outcome for the Council, it is proposed to replace the words “This will not apply in the case of “new build” assets where VAT has been reclaimed on the construction costs of the asset. In this case, the rent will remain fixed for the duration of the lease” with the words “Finance will be consulted on the VAT implications of all rent reviews prior to final agreement.”

## **4 Alternative Options**

- 4.1 Any alternative options to the clauses proposed in the revised policy are explained in the body of the report.
- 4.2 There is an alternative option to not transfer community assets to voluntary sector organisations or parish and town councils but this would be in conflict with the Localism priority in the Corporate Plan.

## **5 Consultation Undertaken or Proposed**

- 5.1 Consultation has been carried out with the members of the Asset Transfer Group, SMT and the Cabinet members for Localism and Finance.
- 5.2 The Policy Development and Review Committee considered the draft revised policy on 3 September and their recommendations are set out above.
- 5.3 A public consultation was also carried out, specifically requesting views from parish councils and voluntary and community sector organisations. The following responses were received:
  - *Iwade Parish Council – “supports the changes which will make the transfer process easier and simpler”.*
  - *Swale CVS – helpfully suggested some minor wording changes to the policy which have been incorporated into the final document.*
  - *Faversham Town Council – responded with a letter direct to the Policy Development and Review Committee and this was taken into consideration at their meeting on 3 September.*

There were no other responses to the consultation.

## 6 Implications

Issue	Implications
Corporate Plan	This policy meets the objectives of the Localism priority set out in the Corporate Plan.
Financial, Resource and Property	These will be identified at the approval stage and reported as part of each community asset transfer decision.
Legal and Statutory	None identified at this stage.
Crime and Disorder	None identified at this stage.
Sustainability	The policy seeks to ensure that any community asset transfer is sustainable in the long term by ensuring that the organisation has a sound business case.
Health and Wellbeing	None identified at this stage.
Risk Management and Health and Safety	None identified at this stage.
Equality and Diversity	None identified at this stage.

## 7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Report to the Policy Development and Review Committee – 3 September 2014
- Appendix II: List of SBC owned Community Assets
- Appendix III: Revised Community Asset Transfer Policy

## 8 Background Papers

None.