

COMMUNITY ASSET TRANSFER POLICY

What is Community Asset Transfer?

Community Asset Transfer is an established mechanism used to enable the community ownership and management of publicly owned land and buildings.

Community Asset Transfer allows Barnsley Council to transfer the ownership of land or property to a community-based organisation at 'less than best consideration' – that is less than its full market value – in order to further local social, economic or environmental objectives.

Transferring an asset to a community-based organisation can encourage volunteering, help utilize local intelligence and create a foundation for sustained community-led enterprise that supports much needed local economic growth.

Barnsley Council is committed to working constructively with community groups and local people to ensure that Community Asset Transfer in Barnsley is successful.

Purpose of this Policy

This policy explains what is meant by the term community asset transfer and sets out how asset transfer will be achieved. This policy provides a clear framework to support the transfer of land and buildings from the Council to local people.

Usually this will mean transfer to a formally organised group of local people (a 'community-based organisation'). Transfer to an organised group of local people will maximise the likelihood that the transfer will be successful and sustainable in the longer term.

Council will consider the merits of each proposed transfer on a case by case basis, however some sites may also be subject to particular legal rules or restrictions or covenants that the Council will need to comply with.

Local Context

Barnsley Council believes that community-based groups are key partners in the delivery of services and provide a vital connection with local people. We recognise that working in partnership with thriving community-based groups can promote volunteering, help us achieve economic regeneration; and promote the social and environmental well-being of the Borough.

For the purpose of this policy the maximum asset value of land or property considered for transfer into the ownership to a community-based organisation is £500,000.

Who can apply?

Expressions of interest are welcome from community groups, which may be area-based, based around particular social groups or have some other shared interest. They must be community-led, with strong links with the local community. Examples of community-based organisations are:

- A parish council, or
- A body with a 'local connection' which is constituted in one of the following ways:
 - a company limited by guarantee, or
 - an Industrial and Provident Society (of either sort – a co-operative or a community benefit society)
 - a Community Interest Company, or
 - any other body which is registered as a charity, including a Charitable Incorporated Organisation.

A community-based group will be considered to have a 'local connection' if its primary purpose is concerned with the local area or the neighbourhood in which the asset is situated.

Transfer Options

A 'Transfer' may take a number of legal forms:

- Freehold transfer of a property would mean the entire ownership of the building would pass from the Council to the community-based organisation. However, restrictions (called 'covenants') would be used ensure the property remained available to local people to use and prevent it being sold for development.
- Leasehold transfer will give a community-based organisation the exclusive right to use the property for the duration of the lease. A lease can run for any period – commonly from a year, up to 125 years. At the end of the lease or licence the building will return to Council control.
- A Licence to Occupy would allow a community-based organisation to use a building, or as is more likely share its use with other groups or individuals.

The Council will discuss with community-based groups what sort of transfer will be most suitable to meet the needs and expectations of the groups and local people. Whilst the Council will normally wish to retain the freehold of the property and grant a lease to a community-based organisation, it will consider other options if it is in the best interest of local people. For example, funding bodies may have requirements that must be met if a community based group is to be eligible to receive grant monies.

During the lease period 'Rent' may be payable. During a licence period a 'fee' may be payable. The Council will expect the community-based organisation to be responsible for the running costs of the building, including repairs, maintenance and all insurance.

The Council is committed to the successful transfer of assets to community-based organisations. However, we also recognise that running a building is an onerous commitment. We do not want local people to be deterred from engaging in Community Asset Transfer because they are apprehensive about the possible risks of transfer.

The Council will normally be willing to accept a transfer back of a building, without any payment or penalty, if the community based group no longer wishes to manage it and it has been safely maintained. Where it has not been well maintained a dilapidations liability may well apply. In either circumstance the building would then normally be sold on the open market.

In accepting return of an asset the Council will not assume any responsibilities or liabilities of the community-based organisation. In addition the Council will not act as guarantor for a community-based organisation when transferring an asset (or subsequently).

The Council will share with any interested community-based organisation all its information regarding the condition and operating costs of any asset that may be transferred. The community-based organisation will be expected to satisfy the Council that they are able to maintain the building satisfactorily after transfer. It should be noted that the Council's funds are limited; that it cannot afford to pay for repairs; and that the community-based organisation will be expected to play a fair part in putting the asset into full repair, including undertaking decoration and furnishing.

The Council will encourage collaboration between community-based groups and the sharing of assets to optimise social value and value for money across the Borough. This may mean that the Council will refuse to transfer specific assets where alternative local premises are reasonable available to community-based groups.

There may be competing groups interested in the same building. In such cases the Council will expect community-based groups to work together and organise themselves in such a way that sharing and use of the asset is optimised between them. If a joint approach is not agreed, the Council will balance the merits of the different organisations' proposals and decide to which organisation (if any) the asset should be transferred. Failure of competing interested community-based groups to collaborate on a joint approach may make it less likely that any acceptable proposal for asset transfer will be achievable.

Any community-based group interested in Community Asset Transfer should consider a number of things by way of preparation:

- Gather evidence to show how the community and local people will benefit from the transfer;
- Gather evidence of community support for the transfer;
- Check other successful Community Asset Transfers in the Borough from which you can learn – the Council’s Property Service can provide contact details;
- Develop a business plan that demonstrates the financial viability of your plans;
- Check that the land or buildings in question are assets and not liabilities – for example if they are liabilities they cannot generate enough income to fund repairs, maintenance, utility and on-going operational costs;
- Ask the Council’s Property Service for a copy of their ‘Community Asset Transfer Pack,’ which provides detailed guidance on the transfer procedures or download from www.barnsley.gov.uk
- Recommended reading from the Department of Communities and Local Government: ‘Managing Risks in Asset Transfers.’

How decisions are made

Community-based groups applying for asset transfer will need to set out the following:

- A sustainable business plan, including future investment in and maintenance of the asset (including a how health and safety responsibilities will be met).
- The planned outcomes and benefits to result from the asset transfer.
- Evidence of a formally organised community-based group.
- A community governance structure (how local people will be involved in decision-making in relation to the building and its use).
- Evidence of the capability and skills within the community based group to sustain the asset transfer (and/or any capacity/skills building requirements).

- Where transfer is requested at less than market value, the benefits to the community and/or the Council to justify the subsidised transfer.
- Sources of finance that asset transfer will release or attract.
- 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.
- Where the community based group is already long-established, evidence of a track record in delivering services and/or managing property (if available) should also be provided.

Each Community Asset Transfer request will require the approval of the Council's Cabinet.