

‘Enabling Community Asset Ownership and Management Protocol’

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1. Vision Statement

Cheshire West and Chester Council's vision is to make the borough a great place to live where:

- All residents can thrive
- All our communities can flourish and
- All can benefit from a prosperous local council.

The protocol Enabling Community Asset Ownership and Management supports our ambition to see communities flourish by enabling them to get more involved in the upkeep and future direction of their area.

Community groups and town and parish councils who wish to take on certain assets and local services will be provided with support and information. The intention is that this will support an increasingly diverse, interesting and buoyant range of activities being provided by our communities.

It is important that this aspiration is supported by robust, fair and transparent processes. This protocol document has been put together to provide clear guidance on the Councils approach to asset transfer and management, and also to enable communities to consider what opportunities might available to them to take an interest in assets in their areas.

2. Purpose of the Protocol

This protocol will cover the following aspects of community management and ownership of assets:

- i. **Interim or Meanwhile use of Assets:** short terms leasehold arrangements to stimulate interim use of disused or underused land and buildings.
- ii. **Community Asset Transfer:** long term leasehold or freehold transfer arrangement entered into by the Council with a community based organisation at market or below market value to support the social, economic and environmental wellbeing of people living and working in West Cheshire.
- iii. **The Community Right to Bid or 'assets of community' value provisions** the Localism Act 2011 placed a new duty on Councils in England and Wales to maintain a list of 'land of community value' in their area, as nominated by the local community.
- iv. **The Community Right to Reclaim Land:** under the community right to reclaim land, communities have the right to ask that underused or unused land owned by local councils and other public bodies is sold in order to bring it back into use.

- v. **Right to Contest:** From January 2014, under the right to contest, requests can be made that land and property held by local and central government be released for better economic use.
 - vi. **Community rights to compulsory purchase:** an amendment to Circular 06/04 enables Councils to respond to requests from community organisations to acquire a disused/underused asset in order to stimulate regeneration, which involves a compulsory purchase.
 - vii. **Multiple Asset Transfer:** transfer of multiple assets relating to a place, service or asset type to community consortia or Special Purpose Vehicles.
 - viii. **Community Right to Challenge:** local groups (including parish councils and local authority employees) have the right to submit an expression of interest in taking over and running a local authority service.
 - ix. **Community Right to Build:** this new right makes it easier for local people to initiate and deliver the small scale developments they would like to see in their area by bypassing the normal planning consent route. Local people can propose development in their area without having to go through cumbersome planning procedures. The benefit of these developments, such as profits, will be managed by the community organisation on behalf of the whole.
 - x. **Neighbourhood Planning:** town and parish councils or neighbourhood forums now have the power to establish general planning policies for development and use of land in a neighbourhood. This can enable communities to 'permit' development where they want to see it – in full or in outline – without the need for planning applications.
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3. National Policy Context

Community Ownership and Management of Assets is not new: it has a well documented history going back hundreds of years. In recent years momentum has gathered, linked to both financial pressures on the public sector and an understanding of the benefits of a more engaged and active 'civil society', and the wider benefits of community management/ ownership. An independent review, published in 2007, which looked at Community Management and Ownership of Assets, led by Barry Quirk, Lewisham Council's Chief Executive Officer, identified a range of benefits as summarised in Table 1.

Since 2010 there has been a renewed focus on the importance of a more active civil society and a raft of new community asset acquisition and development tools have appeared. Most notably the Localism Act 2011 which includes provisions for Neighbourhood Planning and the community Right to Bid; the Public Request to Disposal Order refreshed and extended as the Right to Reclaim Land; and revisions to the Compulsory Purchase guidance to support community organisations.

These statutory provisions offer community and social enterprises new mechanisms with which to acquire and develop land and buildings, giving the opportunity for increasing the role of the community in pro-active place shaping and regeneration.

This is also linked to opportunities for better engagement of the community and social enterprises in the commissioning and delivery of public services.

Table 1: The Quirk Review identified a range of potential benefits from Community asset transfer, including:

Benefits to the Council and other service providers	Benefits to community organisations	Benefits within the community
Access additional resources to invest in areas of need that the Council would struggle to attract. Activities that are stimulated or safeguarded can contribute directly to the delivery of Council objectives, particularly the provision of better services and community outcomes. Contribution to efficiency savings, and diversification of supply base for public services. Stimulates cooperative working between community and social enterprises/the Council/other partners, and improved provision and accountability within communities.	Can stimulate new social markets and underpin more robust community organisations. Can provide greater financial security. Increased capacity to deliver public services and develop community enterprises. Creation of new community and social enterprises, with the ability to lever in additional resources, which would not be available to the Council acting independently. Stimulate greater involvement amongst communities and increased potential to raise money through local philanthropy and engagement of local employers.	Possibility of jobs for community members. Community empowerment support greater local service commissioning. The potential increase in activities/services taken locally. Can stimulate the use of underused land/buildings potentially stimulate regeneration. Catalyst for increased community engagement and community cohesion. Builds confidence and trust amongst individuals through the creation of community assets inspiring others to be involved.

4. Guiding Principles

The Council's protocol is underpinned by the following principles:

- The Council will support the transfer, acquisition and management of assets by groups, community interests and social enterprises throughout the borough of Cheshire West and Chester. The Council will adopt a **pro-active** approach to enable engagement with a diverse range of communities across the borough.

- The Council will adopt an approach which seeks to build upon existing community assets in the broadest sense: people, social enterprises, local businesses, skills, time and money.
- Transfer opportunities will be tested against various public interest and organisational tests, which ensure that the Councils fiduciary, planning and equalities duties are taken into consideration.
- The 'social value' of transfer will also be relevant: this being the wider value added impacts within the community, such as the creation of friendship opportunities for those who are socially isolated, which are harder quantify in financial terms. As such proposals are considered on a case by case basis.
- If below market value is agreed the Council will apply appropriate legal restrictions to the transfers to ensure that the asset remains in community benefit for the purpose agreed in perpetuity.

5. Decision-making processes and assessment criteria

This section summarises show the Council will approach discussions about nominations and expressions of interest received in relation to each of the mechanisms covered by this protocol. More detailed supporting procedures are set out in Section 7.

5.1 Eligibility checker

It is expected that organisations eligible for transfer will:

- Be a charitable or other non-profit making legal structure, or be in the process of setting up such an organisation. Town and Parish Councils are also eligible.
- Be a community led organisation ie one with strong links to the community where members of that community are able to influence its operation and decision making processes.
- Be able to demonstrate social, economic or environmental benefits for the local community including promoting equality and diversity and community cohesion.
- Be properly constituted (or will be by the time the asset transfers) with robust systems, governance and policies in place (guidance on the support available is set out in Section 8).

5.2 Overarching criteria

The following criteria are applied to all cases:

- How far the proposal supports existing plans, policies and priorities, including local priorities which might be set out in neighbourhood or parish plans.
- Whether or not the asset is required for Council or partner operational use for the delivery of wider objectives such as growth or regeneration.
- Whether or not there is a robust, sustainable business case that demonstrates significant benefits to the community generated by the transfer of the asset

which could include the creation of new social markets, delivery of high quality services or new learning and enterprise opportunities for local residents.

- Demonstration of an increased number of users of the facility, including those in hard to reach groups, and how the use of the facility will contribute to community cohesion.
- Ability to manage the facility, including an understanding of the legislation in relation to the occupation of buildings, and demonstrate how it will comply with that legislation.
- The ability of the group to meet its own legal and surveying costs.

6. Supporting Procedures

The circumstances in which the opportunity for community ownership and management of local land and buildings arise are many and varied. In all cases, local interests are encouraged to contact the Council officers at an early stage so that the best route for community ownership/management can be identified.

The key elements and requirements for each of the options identified below are set out in some detail in terms of eligibility criteria, what the Council will do to support the process, and what is required of the community/voluntary organisation.

i. Meanwhile Use

Meanwhile or 'Interim' use of assets has become more evident as economic circumstances and an increase in internet shopping has begun to impact on the high street, resulting in an average 25% of retail units becoming vacant in many areas across the country. As a result there is increasing evidence of social enterprises negotiating short term peppercorn leases with public and private asset owners in a bid to re-animate areas experiencing decline. Temporary use, on terms which may be reviewed if commercial options become possible, can include empty shops being used as temporary art galleries and business units being used for small business start ups.

What the Council will do:

- Promote interim use of land and buildings by supporting the identification of asset owners, facilitating discussion between owners and interested parties, and contributing to negotiations.
- Proactively marketing opportunities for interim uses, for up to three years.
- Provide of basic information about the land and buildings (outline plans, recent utility bills, previous uses, confirmation of planning permissions etc.
- The Council may offer its own land and buildings for interim management on the basis of a peppercorn rent, including a break clause in the landlords favour.
- In relation to its own land and buildings the Council will retain repairing and maintenance obligations, and in some circumstances, will not require business rates to be paid.

What is required of community organisations

- Interested organisations are required to submit the following for consideration by the Council:
 - An Outline Business Case: setting out the aims and objectives of the project (further details at Appendix A)
 - A Meanwhile Strategy: including plans for developing, promoting and managing the land/buildings
 - Supporting documentation: confirmation of memorandum and articles of association, accounts, certificate of public liability insurance and employers liability insurance (where relevant).
- The organisation will take on responsibility for payment of utilities and be expected to return the land/building in equivalent condition.
- It is possible for the community organisation to sub-let or put into place management agreements providing this is in keeping with its Meanwhile Strategy.
- The organisation must commit to ensuring active use of the space for a minimum of three days per week.

Assessment Criteria:

In addition to usual tests (section 6), the Council will review meanwhile/interim proposals to ensure that they:

- are compatible with the development planning framework;
- protect against the further dilapidation of assets;
- preserve or improve the quality of spaces;

- present the potential for wider benefits eg. increased footfall, renewed interest from the private sector, opportunities for local employment, training or volunteering etc..
- are viable/sustainable for the duration of the proposed meanwhile use.

CASE STUDIES

ii. Community Asset Transfer

Community asset transfer is an established mechanism to enable community ownership and management of publicly owned land and buildings. These assets cover a wide spectrum and can include town halls, community centres, sports facilities, affordable housing and play areas. As a result of the General Disposal Consent (2003), a range of public bodies are able to transfer land and buildings to local communities at 'less than best consideration', ie less than full market value. In return it is important that in making the case for transfer these community groups demonstrate their intention to promote social, economic and environmental wellbeing. It is hoped that wider benefit of asset transfer in this way will be to equip local communities with the confidence and capability to deliver services and activities within their local communities.

There are a range options for transfer to a community-based organisations, the most common method being a long leasehold which allows for the opportunity of securing external investment. But, depending on the individual circumstances, this can also include licence to occupy, short leasehold or freehold sale.

What the Council will do:

- The Council will promote the transfer of land and buildings owned by public bodies across the borough to community/voluntary interests and social enterprises, including parish councils.
- The Council will proactively market opportunities for the transfer of land and building it owns for the long term.
- The Council will provide comprehensive information about the land and buildings it markets for transfer – including outline plans, recent utility bills, previous uses, confirmation of planning permissions, condition and relevant covenants.
- The Council will offer land and buildings on a proportionate basis – ranging from peppercorn rents to moderate discounts, where the opportunity cost of foregoing market rental or market sale is considered more significant.
- The Council will transfer repairing, insuring and maintenance obligations, and will work with relevant agencies to confirm applicable business rates from the outset.

What is required of community organisations:

- Community groups/social enterprises that seek to take ownership of land and buildings through an asset transfer from the Council must submit an initial headline Expression of Interest to the Council in response to those land and buildings the Council considers as eligible.

- If this is acceptable, the Council will ask the organisation to develop full a business case and provide supporting documentation. Further details set out at Appendix A.
- Community groups/ social enterprises that agree an asset transfer with the Council will assume full responsibility for repairs, insurance, maintenance and utilities, and be called upon to maintain property in accordance with statutory provisions and good practice.
- Community groups/ social enterprises that enter into a long term lease with the Council will be permitted to issue a sub-lease or management agreement.

Assessment Criteria

In addition to usual tests (section 6), the Council will review Community Asset Transfer proposals as follows:

- Each application judged on its own merits, with details of the transfer being reached through cooperation and negotiation.
- An assessment will be made of how the interests of the community will be better served by discounted transfer than open market sale
- An assessment will be made of what social, economic and environmental benefits will be realised by the transfer.

CASE STUDY: SQUARE ONE/VICARS CROSS COMMUNITY CENTRE

Square One is a purpose built youth centre situated in the largely residential area of Vicars Cross. Following the return of the building to Cheshire West and Chester Council from Connexions in 2011, Great Boughton Parish Council indicated their desire to manage the building as a community hub for Vicars Cross. This would provide an opportunity for the Parish Council to develop and support a range of community activities locally, thereby improving the quality of life for local residents and supporting the delivery of local services. To support the transfer process Cheshire West and Chester Council provided business planning help and expertise, and also developed a freehold transfer agreement which has enabled the Parish Council to take over the management of the building as a going concern. Following the completion of the transfer in September 2014, a part time Centre Management has been employed to support the expansion of activities

iii. Community Right to Bid or 'assets of community' value provisions

As a result of the Localism Act 2011 there is now a statutory duty upon local authorities to maintain a list of assets of community value, which should be publicly available. This process is underpinned by non-statutory advice published in October 2012. Nominations for the list of assets must come from a voluntary or community body with local connections and relate to land/buildings in the local authority area, or in the neighbouring local authority area.

These provisions have been introduced in recognition of the difficulties faced by local groups keen to take over the running of local facilities which are threatened with sale or closure. In cases where the owners of this land or buildings have tried to sell

them on the open market local groups have faced significant challenges in preparing business cases and raising the necessary finance.

The Community Right to Bid is designed to give eligible bodies and community groups the time to prepare a bid before the owner of the asset can dispose of it. Owners of listed assets cannot sell them without letting CW&C Council know that they intend either to sell it, or grant a lease of more than 25 years. CW&C Council would then allow six weeks for a community interest group to ask to be treated as a potential bidder. If a request is received then a full moratorium totalling 12 months is placed on the sale, allowing time for the community group to raise funds and put in a bid. This does not mean that the community group will necessarily be the successful bidder at the end of this process: this Right does not give local groups the right of first refusal to buy an asset, or to force the sale of an asset.

What is an asset of community value?

An asset of community value is a piece of land or a building, already or recently in community use, which has furthered the social wellbeing or social interests of the local community, AND it is realistic to think that this can continue into the near future/ or that it could happen again in the next 5 years.

Community value is defined in terms of:

- PURPOSE – the purpose to which they are being or have been used, rather than the nature of the asset itself – ie not in terms of any historical or architectural merit or location or rarity value.
- LOCATION – local authorities will handle assets of community value nominations within their area – they are expected to cooperate with the neighbouring authority if the site of an asset of community value crosses the boundary.
- OWNERSHIP – all ownership, whether publicly or privately owned.

Exemptions:

The regulations list a number of situations where land or buildings are exempted from inclusion on the list or the operation of the moratorium:

a. Some land and building are exempted from listing as an asset of community value:

- church buildings
- Land or buildings which are primarily residential, including associated gardens
- Licensed (and some unlicensed) caravan sites
- Operational lands owned by 'statutory undertakers' eg. The Post Office, Civil Aviation Authority, Transport providers, utilities.

b. Types of disposal which are exempt from the moratorium process, even if the asset is listed as an Asset of Community Value:

- Disposal through the gift of an asset
- Disposal of an asset containing a business which uses the asset and which is a 'going concern' (eg a shop still in operation)
- Disposal within a family or a partnership or between trustees of a trust or between companies in a group

- Disposals in the execution of a will arising from various legal proceedings
- Disposal of an asset that is part of a larger estate, part of which is not listed, but where the whole estate is owned by the same person and is not a single lot of land

In addition the Act excludes:

- The listing of assets which might have a community value in the future. Assets are deemed to be of community value only if they have community value presently or in the recent past.
- The listing of assets which are occasionally used for the social benefit of a local community, but which are not primarily used in this way eg annual use for a village fete.

What is required of community organisations:

- A range of community organisations are eligible to nominate assets for inclusion on the register:
 - A voluntary or community body with a local connection whose activities are partly or wholly related to the Borough;
 - Parish Councils;
 - An Unincorporated Group with at least 21 members who are on the electoral register in the local authority area;
 - Neighbourhood forums as designated by the local planning authority; and
 - Community Interest Groups – ie legally constituted Community Organisations
- The nomination process is via an on line form available at http://www.cheshirewestandchester.gov.uk/your_council/how_we_work/partnership_and_area_working/area_working/assets_of_community_value.aspx. This requires:
 - a description of nominated building or land including its proposed boundaries
 - all the information the nominator has with regards the names of current occupants of the land , and the names and current or last known addresses of all those holding a freehold or leasehold stake in the land
 - the nominators reason for thinking that the asset is of community value
 - evidence that the nominator is eligible to make a community nomination

What the Council will do:

- The Council will *promote* the nomination of assets of community value to ensure that there is a good level of awareness of the provisions contained within the Localism Act (2011).
- The Council will maintain and publish the list of successful and unsuccessful nominations, including the reasons for not accepting nominations, with entries included in the list for up to 5 years.

- The Council will inform the nominating body, the asset owner, any lawful occupier and the Land Registry within 8 weeks when it intends to register an asset of community value
- The Council will review a decision to register an asset of community value upon receipt of a written request from a landowner, and formally notify them of the outcome and rationale.
- The council will inform the nominating body if it does not intend to register an Asset of Community Value and/or an asset is removed from the list following a Review of Appeal process.
- Whenever a landowner wishes to sell an Asset of Community Value, they need to inform the Council. The Council will then amend the published list to confirm that a notice has been received, the date when the notice was received, the dates of the interim, full moratorium and protected periods within 5 working days. It will also inform the nominating body and publicise the interim moratorium period more widely, so that any eligible body from the wider community is afforded 6 weeks to confirm they wish to prepare a bid to buy the land.

CASE STUDIES

iv. Community Right to Reclaim Land;

Under the Community Right to Reclaim Land, communities have the right to ask that underused or unused land owned by local councils and other public bodies is sold in order to bring it back into use. In the context of challenging economic circumstances, this is intended to support pro-active community led regeneration.

This is a process entered into by the Secretary of State for the Department of Communities and Local Government (DCLG) in response to requests from members of the public its purpose being to stimulate the development and use of disused or underused land and buildings. This is also known as the “Public Requests to Disposal Order” (PROD). Government is particularly keen that this mechanism be used to enable community-led housing and community gardening initiatives.

This process applies to land owned by the public bodies included in Schedule 16 of the Local Government and Planning and Land Act (1980), such as Councils, the Environment Agency and other statutory undertakers. The Secretary of State can also make a recommendation to public bodies not covered by the law in relation to the land that they own, but cannot direct that they dispose of it.

What the Council will do:

- The Council will give clear guidance on its website for community organisations wishing to make a case for approaching DCLG in relation to a possible PROD, and will encourage initial informal resolution through Council officers, prior to any approach to DCLG being made.
- Where the Council receives such an approach and the Council itself is not the owner, the Council will take steps to identify and contact the owner of the

relevant site in order to encourage the resolution of the situation without the use of statutory powers.

- Where the approach relates to Council owned land, the Council will review current and future use and make a full response.
- If informal resolution cannot be achieved, the Council will consider how to support the community organisation in an approach to DCLG.
- Once a request has been submitted to DCLG under these provisions, there will be an assessment process, including finding out from the current owners any plans they may have for its use. If after this stage the Secretary of State decides the land is vacant and underused and that the public body has no plans to bring it into use, they issue a disposal notice that requires the public body to dispose of the land.
- Disposal will normally (but not automatically) mean that the land is sold on the open market, so community groups or others may be able to acquire the land.

What is required of community organisations:

Under this provision, anyone can send a request to DCLG setting out why they think:

- land or property described in the request process is underused or vacant
- that there are no suitable, consulted on and publicly tested plans in place or likely to be put in place in an acceptable period of time
- the land should be disposed of by its current owner in order to enable it to be brought back into use.

Further details at:

<https://www.gov.uk/government/policies/giving-people-more-power-over-what-happens-in-their-neighbourhood/supporting-pages/community-right-to-reclaim-land>

v. Right to Contest

For land and property held by government departments, and the majority of their arms length bodies arms, a request can be made under the Right to Contest to release it for better economic use. Unlike the Community Right to Reclaim Land, which covers previously unused or underused land, the Right to Contest can be used to argue that land currently in use could be put to better economic purpose.

What the Council will do:

- The Council will give clear guidance on its website for organisations wishing to make a case for approaching government in relation to a possible Right to Contest.

What is required of community organisations:

- Under this provision anyone can complete the relevant application form available from the Governments Cabinet Office. Details of the site ownership are required, together with a statement of why it is believed that the land/property is potentially surplus, redundant, or underused.

Further details at:

<https://www.gov.uk/government/news/right-to-contest-new-plan-to-speed-up-sale-of-public-land-and-property>

vi. Compulsory Purchase for Communities

Communities now have the opportunity to request that local authorities their use compulsory purchase powers to bring disused or unused land or buildings back into use. This comes from Government guidance (Circular 06/2004 appendix KA) issued in 2011 suggesting that local authorities to give serious consideration to all viable requests put to them by voluntary and community groups for the compulsory purchase of a threatened community asset using a Compulsory Purchase Order (CPO).

Once compulsory purchase is underway it can be combined with other mechanisms, such as asset transfer, to bring the asset under community control.

What the Council will do:

- The Council will promote the bringing to its attention land and buildings within its area which are neglected or not in constructive use, particularly where there is evidence to show that there may be viable alternatives for such sites
- The Council will give clear guidance on its website for community organisations wishing to make a case for approaching compulsory purchase of a threatened community asset.
- Where the Council receives such an approach, it will take steps to identify and contact the owner of the site to encourage resolution of the situation without the use of statutory powers.
- If informal resolution cannot be achieved, the Council will consider the possibility of using its statutory powers to secure the acquisition of the site. At this stage, the organisation requesting this action would be asked to demonstrate the business case for compulsory acquisition.
- The Council will consider in each case how the costs of acquisition are to be funded.
- Possible future transfer of land and property acquired by the Council as a result of CPO would take into account the principles set out in the previous section on Community Asset Transfer.
- If the Council decided not to use its CPO powers it will give its reasons for this decision in writing.

What is required of community organisations:

- Community organisations that are seeking CPO acquisition and onward transfer by the Council are expected to develop and full Business Case and to provide supporting documentation (see Appendix A).
- These organisations would need to be clear about the value of the asset to the community; the perceived threat to the asset; the future use of the asset and who would manage it (including a business plan where appropriate); any planning issues; and how the acquisition would be financed.

Assessment criteria:

The Council will assess each case in terms of whether or not there is a compelling case in the public interest for acquisition, looking particularly at:

- The value of the asset to the community
- Any perceived threat to the asset
- Any proposals for the future use of the site
- Any relevant planning issues
- How the acquisition would be financed, including how the costs of the compensation paid the owner and the Council's costs would be met.

vii. Multiple Asset Transfer:

Motivated by the need to rationalise revenue expenditure and reconfigure services, local authorities up and down the Country are looking at opportunities to transfer multiple assets to local groups and social enterprises. These can relate to:

- place-based: looking at the transfer of a mixed portfolio of assets in a particular area to underpin a new community enterprise eg. Avenue Services in Blacon
- service-led: exploring transfer options relating to specific types of service eg. in West Cheshire, the transfer the provision of leisure services to Brio Leisure, a Community Interest Company.
- asset type: transfers of specific types of asset eg community centres.

Whilst the circumstances and criteria surrounding such opportunities will vary, the key principles of Multiple Asset Transfer will generally mirror those involved in individual transfers, and seek to support:

- Community engagement/empowerment
- Financial sustainability/viability
- Enhancement of services for the community

In working through Multiple Asset Transfer proposals it is important to undertake extensive community consultation at an early stage to address local concerns and help shape proposals. Robust business models must be developed, particularly if the venture is currently operating at a loss. It is therefore important to explore different models of ownership, management and collaboration to develop sustainable solutions.

What the Council will do:

- The Council will promote the transfer of land and buildings owned by public bodies across the borough to community/voluntary interests and social enterprises, including parish councils.
- The Council will proactively market opportunities for the transfer of land and building it owns for the long term.
- The Council will provide comprehensive information about the land and buildings it markets for transfer – including outline plans, recent utility bills, previous uses, confirmation of planning permissions, condition and relevant covenants.

- The Council will offer land and buildings on a proportionate basis – ranging from peppercorn rents to moderate discounts, where the opportunity cost of foregoing market rental or market sale is considered more significant.
- The Council will transfer repairing, insuring and maintenance obligations, and will work with relevant agencies to confirm applicable business rates from the outset.

What is required of community organisations:

- Community groups/social enterprises that seek to take ownership of land and buildings through an asset transfer from the Council must submit an initial headline Expression of Interest to the Council in response to those land and buildings the Council considers as eligible.
- If this is acceptable, the Council will ask the organisation to develop full a business case and provide supporting documentation. Further details set out at Appendix A.
- Community groups/ social enterprises that agree an asset transfer with the Council will assume full responsibility for repairs, insurance, maintenance and utilities, and be called upon to maintain property in accordance with statutory provisions and good practice.
- Community groups/ social enterprises that enter into a long term lease with the Council will be permitted to issue a sub-lease or management agreement.

Assessment Criteria

In addition to usual tests (section 6), the Council will review Multiple Asset Transfer proposals as follows:

- Each application judged on its own merits, with details of the transfer being reached through cooperation and negotiation.
- An assessment will be made of how the interests of the community will be better served by discounted transfer than open market sale
- An assessment will be made of what social, economic and environmental benefits will be realised by the transfer.

viii. Community Right to Challenge:

The Community Right to Challenge allows local groups (including parish councils and local authority employees) have the right to submit an expression of interest in taking over and running a local authority service, when they believe that they can do things differently and better. They may think that they could deliver services better or cheaper, make them more responsive to local needs, offer additional social value or deliver better value for money. The services may be at any scale of activity from very local and small to authority wide.

What the Council will do:

- If an expression of interest is submitted to and accepted by CW&C Council, a procurement exercise is triggered. This may or may not be won by the group expressing an interest.
- In the procurement process the Council will act impartially and follow legal obligations, such as those set out in Best Value regulations and the Equality Act.

- The Council will publish the maximum length of time it will take then to make decisions on expression of interest on its website. It will also specifically tell the group that has submitted the expression of interest how long it will take to inform them of their decision.

What is required of community organisations:

- Expressions of interest must be in writing and include information about:
 - The financial resources of the submitting organisation(s);
 - The capability of the organisation to provide the service;
 - The service and the geographical area it relates to;
 - The outcomes sought, including how the service will improve the social, economic or environmental well-being of the area and meet service users needs;
 - Where the organisation is made up of employees of the Council, the expression of interest must include details of how it will engage other employees affected by it.

Assessment Criteria

- Careful consideration must be given to how a proposal for a service might offer social, economic or environmental benefits to the community.

priorities and effectively deliver their own services in Blacon.

ix. Community Right to Build

The Community Right to Build aims to make it easier for local people to initiate and deliver small scale developments they would like to see in their area. This came into force as a result of the Localism Act and is a particular type of neighbourhood development order allowing people to propose a development in their local area and obtain permission for it without having to go through a lengthy and cumbersome planning process. A proposal can be developed as part of a full neighbourhood planning process, or on its own. The purpose this provision is that by allowing communities to decide on a development via a referendum, it gives local people direct control over what is happening in their area, as opposed to being consulted on development proposed by external agencies.

The key benefits of the Community Right to Build are:

- the community decide the type, quantity and design of properties to be developed, and this can include the building of homes, shops, businesses, affordable housing for rent or sale, and community facilities.

- Any revenue directly generated from the development through a Community Right to Build is retained by the community, whether or not the community organisation owns the development. These will be managed by the community organisation on behalf of the whole community.
- Wider impacts in terms of boosting the local economy, increasing employment and more generally an increase in community spirit and feeling of ownership.

What is required of community organisations:

- Community Right to Build applications must come from legally constituted organisations “established for the purpose of furthering the social, economic, and environmental wellbeing of individuals living or wanting to live in a particular area” (for example, town and parish councils, companies limited by guarantee, community interest companies and industrial and provident societies). Membership of the organisation must be open to all individuals who live or work in the areas to become voting members (the majority voting rights must be held by residents).
- An initial application must be made to define the neighbourhood area for development, including a map and a statement of why this area is considered appropriate to be identified as a neighbourhood area.
- The organisation must engage with the local community to gauge support for the development they are looking to achieve. This could be part of a wider neighbourhood planning process.
- The proposals themselves must include a map which defines the neighbourhood, a consultation statement, the Community Right to Build order (defining what it is planned will be built), and a statement explaining how the development plan meets planning regulations. Consultation must take place with everyone who lives, works or has business in the area.
- The order must then be submitted to the Council as the local planning authority.

What the Council will do:

- The Council will give clear guidance on its website for community organisations wishing to consider using the Community Right to Build.
- Once an order has been submitted the Council will arrange for it to be examined by an independent examiner, who will ensure that the proposal is from an eligible community organisation, and that it does not cover excluded development. The report of the independent examiner recommend that the order proceed to referendum, with or without modifications, or that it does proceed.
- The Council will then publish the decision and order, and organise a referendum if recommended by the independent examiner.
- If the referendum receives over 50% support from those voting, the local planning authority must grant planning permission for the development to go ahead.

x. Neighbourhood Planning

Since April 2012, local communities have been able to produce neighbourhood plans for their local area. This is a community-led framework for the future development

and growth of an area, which if adopted becomes the statutory development plan for the area in question. A neighbourhood plan must focus on the use and development of land, and the associated social, economic and environmental issues. It may deal with a wide range of issues (like housing, employment, heritage or transport) or it may focus on one or two issues which are of important in a local area.

A neighbourhood plan will be subject to examination and referendum and then form part of the Local Development Plan. This statutory status gives neighbourhood plans far more weight than some other local planning documents, such as parish plans, community plans and villages design statements.

Cheshire West and Chester Council has produced detailed guidance in the form of a [Neighbourhood Planning Toolkit](#) to support local groups in the process. A quick guide to the key stages of this is presented below:

Qualifying bodies to begin the preparation of a neighbourhood plan: if there is a town or parish council covering the area then this will be the qualifying organisation for leading a neighbourhood plan. Where there is not town or parish council, a neighbourhood forum representative of the people living and working in the area, and with at least 21 people must be formed.

Identifying neighbourhood areas: the area to be covered can be large, covering more than one town or parish council area, or small covering a housing estate or village. The first step in neighbourhood planning is submission to the proposed area to the local planning authority for designation.

Developing the neighbourhood plan: the format for the plan is not prescribed, and should be developed from the information/data about the area (the evidence base). From consideration of this evidence and early community engagement, the key issues for and aims of the plan should emerge.

Pre-submission consultation: it is a legal requirement that the proposed Neighbourhood Plan is publicised and the subject of public consultation before it is submitted to the Local Planning Authority.

Independent Examination: it is the responsibility of the Local Planning Authority to organise and cover the cost of the independent examination and referendum. The independent examination is to ensure that the plan meets the necessary standard and is in conformity with legislation and general conformity with national and local policy. The independent examiner may suggest that the plan progresses to referendum stage with or without modification. They may also conclude that the plan should not progress if it does not meet the relevant legal requirements.

Referendum: if more than 50% of those voting in the referendum vote 'yes' then the Council will adopt the plan.

8. Support for Communities

This protocol document has identified the range of opportunities and mechanisms in place to support the acquisition and development of assets by communities. The relevance of these methods of supporting community ownership and management of assets will vary with each individual case, and it is important that appropriate advice/support is obtained at an early stage.

Cheshire West and Chester Council is committed to contributing support for these processes in the following ways:

- Engaging with local all partners in order to map local assets, and to begin to appreciate local ambition/capacity to shape and manage local assets.
- Providing clear and transparent guidance on the Councils protocol on local asset management, including reference to the tools now available to support these processes.
- Ensure that consistent and fair support is provided to all community and voluntary groups, including equal access to advice and guidance on business planning and the exploration of funding opportunities.

More generally, advice and guidance can be obtained from a number of other bodies:

LOCALITY (www.locality.org.uk)

Asset transfer Unit (www.atu.org.uk)

My Community Right (www.mycommunityrights.org.uk)

National CLT Network (www.communitylandtrusts.org.uk)

Map of public assets: www.publicassets.communities.gov.uk

Building Calculator tool (exploring viability): www.buildingcalculator.org.uk

Examples of community run post offices: www.communitypo.cflabs.org.uk

Assets of community value

Regulations on assets of community value and explanatory memorandum:

<http://www.legislation.gov.uk/ukdsi/2012/9780111526293/contents>

<http://www.legislation.gov.uk/ukdsi/2012/9780111526293/memorandum/contents>

Non-statutory advice note on the community right to bid:

<http://www.communities.gov.uk/documents/communities/pdf/2229703.pdf>

APPENDIX A

Business Plan and Supporting documentation

- A Full Business Case: to include

- Information about the organisation: its track record, people involved, governance and legal structure
- The Project: objectives, programme for delivery, proposed impacts/benefits, management and operational arrangements
- The Market: the local need the project will respond to, beneficiaries, demand for the products/services to be supplied, customers, related provision in the local area, scope for collaboration/competition, pricing for rentals/services.
- Communications: evidence of a marketing strategy
- Resources: financial projections, Year 1 cash flow, 2-5 year budget, profit/loss figures etc
- Risk Profile

- Supporting documentation: to include

- Governance documents
- Evidence of external advice
- Support from partners/stakeholders
- Accounts (where possible)