

WILTSHIRE COUNTY COUNCIL

AGENDA ITEM NO. 10

CABINET
22 APRIL 2008

COMMUNITY ASSETS POLICY

Executive Summary

This report recommends that policy criteria are approved to provide a policy framework for the County Council's response to requests for specific assets to be transferred from the ownership of the Council.

Proposal

That Cabinet endorse the policy described in this report for the use and ownership of assets, and in particular the principles at paragraph 10. These will provide a framework for considering requests which may be received by the Council for change in use and/or ownership of assets.

Reasons For Proposal

As we plan and prepare for the new council for Wiltshire, we need a clear policy on the ownership, use and (in specific cases) transfer or sale of assets. This report considers what that policy should cover and how it should be developed.

Approaches are being made to the County Council by Town and Parish Councils and other community organisations, seeking consideration of their requests for specific assets to be transferred from the ownership of the Council. The approaches are being made in the context of a national community assets policy initiative and it is therefore timely for the Council to develop a policy framework.

KEITH ROBINSON
Chief Executive

CABINET
22 APRIL 2008

COMMUNITY ASSETS POLICY

Purpose of Report

1. To seek Cabinet approval for the further development of a Community Assets Policy, to be informed by the policy principles set out in this report.

Background

2. The national initiative represented by the Quirk Review 'Making Assets Work' (summary appended) has generated cross – sector support and interest in the principle of the transfer of community assets. The Local Government White Paper 'Strong and Prosperous Communities', published in October 2006, signalled opportunities for communities to manage and own local public buildings. It highlighted the role that asset management or ownership can play in empowering communities as well as a means of securing external investment.
3. Subsequently the Quirk Review 'Making Assets Work – Community Management and Ownership of Public assets', published in May 2007, concluded that transferring public assets to communities leads to more responsive services that meet local people's priorities. A £30m Community Asset Fund was launched by the Big Lottery in July 2007 for 2007-08, aimed at upgrading local authority assets for transfer to the community sector.
4. The Council's statutory functions include responsibilities for specific services and also a wider power to promote " well-being" – "the overall welfare of communities" The Council's policy should be intended to maximise its performance against this wider function as well as its functions in respect of specific services on which it has focused in the past.
5. The goals for One Council for Wiltshire include:
 - High quality low cost public services organised round "the customer" not the organisation;
 - Local and transparent decision making and public involvement; and
 - Community development and the growth of "social capital"

The Council's policy towards community assets transfer should support these goals.

What is Asset Transfer?

6. Asset transfer refers to local communities' ability to acquire land and buildings from the local authority property portfolio, either at market value or at a discount, in order to deliver local services that meet local needs. For the authority to choose to forego the financial benefits of market disposal it is necessary for the community group to demonstrate added value and benefits by contributing to sustainable community objectives.
7. Community benefits include the ability to plan, create wealth, accumulate income and generate a surplus for the community as well as restore buildings and deliver social, economic and environmental benefits. Redevelopment or refurbishment of a building can attract other investment as well as provide local employment and purchasing opportunities.
8. Transfer of an asset can provide the opportunity to lever more resources into a community and provide a more accessible and responsive base from which to deliver local services. It should strengthen the local community and provide a channel for user community communication and advance local regeneration plans.
9. The community organisation can benefit from greater financial stability and build confidence through having ownership (or long term security through a lease) of a physical asset. This financial sustainability can help the organisation become less dependent on grants, provide collateral for further borrowing and opportunities for further growth.
10. Typically, organisations that would be considered appropriate are Voluntary and Community Groups/Associations, Town or Parish Councils, Trusts or Charities, or Social Enterprise Groups.

Policy Framework

11. The following principles are proposed to underpin the further development of a Community Assets Policy:
 - i) all land and property owned by the Council should be owned for a purpose. If there is no such purpose the Council should dispose of it.
 - ii) the assessment of the purpose, or use, of an asset must relate to the Council's statutory responsibilities and/or its goals for the county.
 - iii) in practice, land or property will have several potential uses:
 - to assist the Council in meeting its statutory responsibilities – either directly by providing an asset for use, or indirectly

- by generating a capital receipt for investment in other assets.
 - to support the local community by applying the asset for a local use by the community, thereby promoting the Council's goal of strong and resilient communities.
 - to support the economic regeneration and development of the locality by applying the asset for commercial or related development.
- iv) in such cases, the choice between these potential uses will depend upon their respective assessed benefits.
- v) once the Council has reviewed and confirmed the purpose of specific land or property, the further issue arises, of its ownership. Where an asset is designated for community use, there should be a presumption in favour of community ownership (or long lease), provided a suitable body is available to which ownership can be formally assigned. (see 'risk' below).

Policy Development

12. In further developing the policy it will be important to have an overview as to what assets the new council will own and therefore what is the process and timescale for drawing up an inventory of land and property which will be held by the new council. At this stage, liaison with the District Councils anticipates the Districts terrier systems being transferred onto the County Councils system - an early Summer deadline for this process is realistic.

Approaches made to the County Council

13. Queries received from interested bodies will be dealt with as necessary during the foreseeable future, drawing on the principles set out in this report. In the future it is possible that the functioning of the Community Area Boards will stimulate further proposals being brought forward to the new Council.

Risk Assessment

14. Not every building or piece of land will be an asset for the community, in fact some will represent liabilities (e.g. poor condition, wrong size/location/configuration, listed and expensive to maintain, etc.), creating a drain on resources, generate too little income and potentially set the group up for failure. To mitigate this risk the community group will need to provide a robust business plan that is deemed to be achievable. Equally the authority should be forthright in its assessment of the building's condition and future maintenance liabilities.
15. The policy should include the management of the risks associated with its implementation, and that in turn should include the procedure for appraising options. The risk analysis will need to include in each case,

an assessment of the capacity of an outside body to maintain and operate a transferred premises.

16. We should also consider whether there are local cases from our experience in Wiltshire of successful and unsuccessful transfer of assets, in order to inform policy development and risk assessment.

Legal Implications

17. Local authorities are given powers under the Local Government Act 1972 to dispose of land in any manner they wish, including sale of their freehold interest, granting a lease or assigning any unexpired term on a lease. Except in the case of short tenancies a disposal of land must be for the best consideration reasonably obtainable, unless the Secretary of State consents to the disposal.
18. The Secretary of State has issued a general consent - The Local Government Act 1972 General Disposal Consent (England) 2003 - to enable local authorities to dispose of land at an undervalue, subject to certain conditions. The terms of the consent mean that specific consent is not required for the disposal of any interest in land which the authority considers will help it to secure the promotion or improvement of the economic, social or environmental well-being of the whole or any part of its area, or of all or any persons resident or present in its area. Further, under the General Disposal Consent disposals at less than best consideration are subject to the condition that the undervalue does not exceed £ 2 m.
19. In determining whether or not to dispose of land for less than the best consideration reasonably obtainable, and whether the General Disposal Consent applies, authorities are obliged to ensure that they comply with normal and prudent commercial practices, including obtaining a professional valuation as to the likely amount of the undervalue.

Financial Implications

20. The traditional approach to asset management in Wiltshire County Council has generally been to maximise the level of Capital Receipts obtainable from asset sales. However, the Council takes community interests into accounts in determining the Capital Programme; in particular, the scoring of competing potential discretionary capital schemes takes account of Local Public Service Agreements (LPSA's).

In moving forward, it will be important to maintain the appropriate balance between a commercial approach in most cases and specific cases in which it may be deemed appropriate to transfer an asset to community ownership. The rationale will need to be very clear in such cases and should feed from the main conclusions of the Quirk Review.

The approach in the medium term will evolve from discussions between the existing five Local authorities which will coalesce into Wiltshire Council. One possible approach is to appraise the pros and cons of setting up a “community fund” in the future which would have the merit of defining the extent by which the local authority was willing to subsidise a system of transferring assets to the community.

Proposal

21. That Cabinet endorse the policy described in this report for the use and ownership of assets, and in particular the principles at paragraph 10. These will provide a framework for considering requests which may be received by the Council for change in use and/or ownership of assets.

DR KEITH ROBINSON
Chief Executive

Author: Linda Watts, Principal Assistant to the Chief Executive

BACKGROUND PAPERS

The full report of the Quirk Review ‘Making Assets Work’ published in May 2007 has been used for reference in preparing this report.

Summary

The Quirk Review was launched in May 2007.

In his report, Barry Quirk, the local government 'efficiency champion', recommended a major programme of awareness raising and capacity-building, and also recommended that councils and other public bodies take a more corporate approach to their overall asset portfolio and their relationships with the community sector.

He did not recommend new legislation, along the lines of the Community Right to Buy that exists in Scotland, at this stage, and he did not make recommendations on the level of finance required. Some third sector organisations perceived that this was a landmark report which will boost transfer of assets to communities in the coming months and years.

Background

In September 2006 the Government announced a review to identify barriers to greater asset transfer from local authorities and other public bodies to the community sector, and to find ways to overcome any barriers that were identified.

Barry Quirk, Chief Executive of Lewisham Council and the local government 'efficiency champion', was appointed to lead the review. The other members of the review team were Stephen Thake from London Metropolitan University, and Andrew Robinson from CCLA Investment Management (and also a DTA Special Advisor).

Conclusions of the Review

The main conclusions are as follows:

The public benefit needs to be clear

'Assets are used in service of an array of social, community and public purposes. Any sale or transfer of public assets to community ownership and management needs to realise social or community benefits without risking wider public interest concerns and without community purposes becoming overly burdened with asset management.'

Benefits can outweigh risks

'The benefits of community management and ownership of public assets can outweigh the risks and often the opportunity costs in appropriate circumstances.'

Risks can be minimised and managed

'There are risks but they can be minimised and managed – there is plenty of experience to draw on. The secret is all parties working together. This needs political will, managerial imagination and a more business focused approach from the public and community sectors.'

Ownership brings greater responsibility but also greater freedom to exploit the potential of assets

‘The stake that community-led organisations have in particular assets extends from short-term management agreements, through to leasehold ownership on leases of varying lengths and freehold ownership. It also stretches from small volunteer-run village halls and community centres to multi-million pound, multi-purpose community enterprises. We recognised that the greater the stake, the greater the financial and legal responsibility the organisation takes on, but also the greater the freedom to exploit the asset’s potential.’

There are no substantive barriers

‘If there is a rational and thorough consideration of these risks and opportunity costs, there are no substantive impediments to the transfer of public assets to communities. It can be done, indeed it has been done legitimately and successfully in very many places.’

Recommendations

The key recommendations of the Quirk Review are:

Government guidance

“The publication of comprehensive, up-to-date and authoritative guidance on all aspects of local authority asset management, including within it detailed and explicit guidance on the transfer of assets to community management and ownership.”

Risk toolkit

“The publication of a toolkit for local authorities and other public bodies on risk assessment and risk management in asset transfer to communities.”

More access to expert advice

“Much greater access for local authorities and community organisations to expert advice and organisational development support relating particularly to the transfer and management by communities of land and buildings.”

Better investment

“The smarter investment of public funds designated for community-led asset-based developments, where permissible, through the involvement of specialist financial intermediaries with expertise in the field and the ability to achieve high leverage ratios.”

Corporate approach

“It makes sense for local authorities to develop a strategy for the use of their assets which is corporate across the local authority, and integrated with other public bodies locally, including particularly the National Health Service, the police and the third sector, as well as, where appropriate, approaching this task is through area property reviews, focusing either on a locality or on a particular type of asset. An important example of this could be for local authorities to work in partnership with the local third sector on a strategy for meeting the sector’s asset needs.”