

Divisions Affected - All

PERFORMACNE AND CORPORATE SERVICES OVERVIEW AND SCRUTINY COMMITTEE

15.11.2024

REPORT ON THE COMMUNITY ASSET TRANSFER POLICY AND LEASES TO THE VOLUNTARY AND COMMUNITY SECTOR TENANTS

Report by Vic Kurzeja, Director of Property and Assets

RECOMMENDATION

1. **The Performance and Corporate Services Overview and Scrutiny Committee is RECOMMENDED to consider the report, raise any questions, and to AGREE any recommendations it wishes to make to Cabinet arising therefrom.**

Executive Summary

2. Oxfordshire County Council (OCC) has a history of supporting local communities in taking action to create more sustainable and resilient communities. Approaches such as the Oxfordshire Way enshrine a recognition that local communities are often best placed to understand the community's needs and to deliver and run successful services that can respond to local needs.
3. Supporting voluntary and community sector (VCS) organisations to access land and assets held by the Council is a fundamental pillar of the Council's Community Wealth Building (CWB) approach. Where there is land or assets available, and the agreement is financially sustainable, the Council will continue to support community lease and asset transfer arrangements. The current process can be confusing for VCS organisations and OCC staff, and ultimately doesn't support any party to carry out effective long-term budgeting.
4. The Council will be developing a Community Wealth Building Strategy that will seek to encourage system partners to develop effective policies around making land and assets available to community organisations. There are many 'anchor' organisations in Oxfordshire with significant land and asset holdings. An 'anchor' organisation is defined as having an important presence in a particular place due to their mission, histories, employment, purchasing

power, physical assets and local relationships¹. CWB approaches highlight the importance of all anchor organisations supporting the wellbeing and wealth of their local place through providing access to land and assets where appropriate.

5. The Council has a relatively small portfolio of properties or land that would be available for community lease or transfer, meaning when an agreement is reached, there needs to be a strong focus on financial sustainability, otherwise this practice will become unviable for the Council and for the community organisations involved. The Council also needs to ensure that it meets the obligations of s123 of the Local Government Act 1972 ensuring best consideration is received in respect of any disposal.
6. This paper will provide some context on the current Community Asset Transfer (CAT) and community lease policies and set out some possible next steps for how these policies can be improved.

Context

7. Within its current property portfolio Oxfordshire County Council (OCC) has 92 leases/licences with voluntary and community sector tenants that produce an annual rental income of just under £319,000 pa.
8. These leases can be broken down into the following areas:
 - (a) **Community lettings** – 36 tenants, rent £101,535 pa.
 - (b) **Education lettings** - 35 tenants, rent £117,152 pa.
 - (c) **Parish and District Council lettings** - 8 tenants, rent £8,042 pa.
 - (d) **Community tenants with rent concessions** - 12 Tenants. All given rent concessions. Rent without concessions c.£92,000 pa.
9. When the concept was first introduced, Community Asset Transfer referred specifically to the transfer of ownership or management of property to community organisations. OCC has had a 'CAT Asset transfer policy' since June 2011 and a separate 'CAT' policy for short term leases, often at a below market rent. The terms negotiated for these leases vary as they are agreed between the parties to reflect the nature of the premises, and the specificity of the arrangement reached between the parties.
10. The term 'CAT' has also been associated with rent concessions. Rent concessions were granted to a limited number of tenants post-covid. They were not exclusively CAT tenants and the link between rent concessions and CAT tenants needs to be removed.
11. There are 38 leases at rents of less than £500 per annum, many leases are historic long-term arrangements, and some relate to land only where there are no building maintenance issues.

¹ [What is an anchor institution? | CLES](#)

12. Lease lengths vary as do the mechanisms for rent reviews. Because of the relatively low level of rent determining rental uplifts and renewals can be difficult and protracted, and community interest can be significant.
13. Improving the Council's policies around community asset transfer and community leasing will enhance the positive benefits that CAT can provide for community groups and for the Council. Enabling local community groups to access Council-owned land and assets provides a range of benefits for VCS organisations, including the ability to borrow against assets, to attract external grant funding and the flexibility to use the asset to generate income.
14. Improved CAT policies would create a process that is more transparent and has greater clarity around roles and responsibilities. The improved policies would also seek to be less time consuming for Council officers and ensure that all assets can be maintained to a good standard in the long-term.

Community Asset Transfers (ownership)

15. OCC has had a Community Assets Transfer (CAT) policy since 2011. Community Asset Transfers are an established mechanism used to enable the community ownership and management of publicly owned buildings. With "General Disposal Consent" public bodies are able to transfer ownership and management to the local community at less than full market value.
16. OCC has not fully embraced this option, mainly due to the fact there is a low level of empty / vacant property available to be transferred and there is only limited demand from existing occupiers. There has been a preference for short term CAT leases allowing community groups and charities to occupy buildings.
17. Opportunities have been progressed to transfer ownership of properties to community groups, most recently a property in Banbury, but none have been completed. A common cause of CAT agreements falling through is that the community groups are not able to fulfil the responsibilities of managing the asset, statutory compliance and the repairs and maintenance that they would become responsible for if they owned the asset.

CAT Leasing

18. OCC has had a CAT leasing policy since 2019. A number of leases have been granted using this policy, although the number is falling, and no new requests have been received post-covid.
19. There has been an ongoing review, starting in 2023, of the Council's CAT policies and initial findings have identified a few improvements that need to be made. These include introducing an appeals procedure for decisions made and requesting that tenants provide an annual update on the benefits they have provided to the local community. This review is ongoing and will take into account the considerations laid out in this report.

Demand and availability of space

20. The Council's overall property portfolio is relatively small with the majority of the estate used for corporate purposes, let, or held for redevelopment/sale. The percentage of land/ building that lies vacant is less than 1% of the portfolio.
21. Currently there are only 13 buildings listed on the vacant property schedule (Annex 1). From this list contracts to sell 2 buildings have been exchanged, subject to planning, where receipts will exceed £10m. 3 properties are currently under offer, 2 properties are being actively marketed and 1 unit is being held to be sold once planning consent to the adjoining land is received. Services are using, or considering using 5 properties and 1 property cannot be used for structural reasons.
22. Of the properties being sold, or under offer, one site will be for age related dwellings, one will be for social housing and one site is being sold to a charity relocating from Oxford. This are in addition to a site sold earlier in the year exclusively for social housing in Oxford.
23. Demand from the voluntary/ community sector for space is usually for retail units, residential accommodation or land for animal/environmental uses, based on the type of requests the Council receives from VCS organisations.

Rent concessions

24. Rent concessions were granted to a limited number of tenants post-covid. This arrangement was extended for a further year and subsequently extended until March 2025. Tenants were advised that the concession would end in March 2024, but this generated a backlash of concerns, and the decision was reversed. The budget for 2024/25 was approved on the basis of the rent concession being extended but with the shortfall, being funded from the Budget Priority Reserve Fund.
25. The initial cost of rent resulting from the concessions granted was in excess of £130,000 per annum. A number of leases have either not been renewed or terminated with the result that the current rent roll is now c. £92k pa. There are also a number of tenants who have indicated that even with the rent concession they are unable to meet their current outgoings and may serve notice to terminate their leases.
26. The rent concessions granted, and CAT tenants are often talked about as being the same thing. Concessions granted were not exclusively to CAT tenants and the link between rent concessions and CAT tenants needs to be dismissed.

<h2>Challenges</h2>

27. The Council has a strong commitment to support the Voluntary and Community sector, with a proven track record of letting space to organisations

in this sector. Nevertheless, there are a number of challenges which present significant risks for the ongoing sustainability of the current community leasing approach, both for the Council and the VCS organisations involved:

- (a) Many tenants are not financially in a position to pay rent. Having been granted a rent-free period, it is difficult for tenants to start paying again.
- (b) Many tenants have entered into leases, with repairing obligations they are no longer able to fulfil and look to OCC to pick up these obligations. This presents a financial pressure for the Property budget, which cannot be sustained in the long term.
- (c) A number of tenants have raised the fact that only having a short-term lease prohibits their ability to bid for or seek grants or loans.
- (d) When notices have been served to end leases it has proved difficult, timely and costly to remove tenants.
- (e) Having let space to tenants, there has been no agreed requirement for tenants to report of the work they are doing in the community and its value. There have been examples of tenants not using the premises for the purpose intended but using the accommodation as free storage space or sub leasing the space.
- (f) The amount of time Officers spend dealing with VSC leases is considerable as often tenants are not experienced in understanding leases and managing their obligations.

Likely next steps

28. Officers are developing next steps for future Cabinet / delegated decision making. Actions under consideration include:
- 1. The Council continues to hold a dialogue with current and prospective tenants in the VCS sector about their needs to understand any issues/barriers early and prevent risks to tenancies later down the line.
 - 2. A new 'light touch' leasing policy for the VSC sector should be agreed. As the number of tenants with concessionary rents fall and leases come up for renewal a different approach needs to be adopted to meet the needs within the community. The new VCS "light touch" leasing policy could include the following:
 - a. A standard commercial lease is used to reflect the terms agreed, rather than a separate CAT lease. This would be more flexible, reflecting the needs of the tenants (i.e. longer leases) and the condition of the building.

- b. A decision to grant a lease should be based on the profit and loss assessment made for the property following a full assessment of the future repairing costs.
 - c. In circumstances where there is a desire by the council to let to a VCS tenant, the budget holder supporting the letting needs to be responsible for any rent concessions and all liabilities. Where a letting has a direct benefit to a Service area it should be the Service area who are responsible for all costs.
 - d. A reviewed policy would ensure that prospective tenants are supported to understand the obligations of the lease and to outline financial planning to support the lease. Business plans should be requested from all prospective tenants and annually reviewed once a lease has been agreed. Prospective tenants would be signposted to business development colleagues what can support with writing a strong business case and understanding the obligations of the lease. This suggestion is in line with best practice from organisations such as Locality who lead on CAT policy nationally.
 - e. An overall budget/ sinking fund should be provided for repairs to deal with repairs that VCS tenants cannot undertake. Doing this will preserve the value of OCC's assets and allow the Council's VCS tenants to remain in occupation providing services to the community.
 - f. To reduce the amount of time Officers spend dealing with rent reviews, rents should all be indexed linked with the sum increased annually. This would not only save time but would make budgeting easier as there wouldn't be potentially large increases after 5 years.
3. The Council separates Community Asset Transfers and leasing to the VSC sector with a new ownership transfer policy in addition to the new light touch leasing policy.
 4. A separate policy for rent concession as agreed in respect of all leases.

Corporate Policies and Priorities

29. Improving the Council's CAT policies is in line with the principles agreed in the VCS Strategy to support the invaluable contribution that community and voluntary groups make to local places.
30. The Council approved a Community Wealth Building action plan for 2024/2025 which includes an action to review the Council's current CAT policy(s). Community Wealth Building is an approach to economic development that

identifies land and asset management as powerful tool for leveraging wealth and assets for the use of local communities.

Financial Implications

31. There are no financial implications of this report.

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Legal Implications

32. Local Authorities have a general duty to act prudently with their assets and this will normally involve obtaining full market value for any disposal (including leases of whatever length or transfers).
33. This duty is codified for disposals generally (other than leases of less than 7 years) in Section 123 of the Local Government Act 1972, which gives the option of an application to the Secretary of State for specific permission to make disposals at less than market value. Public subsidy control legislation has a similar effect.
34. A local authority has a general discretion under the Local Government Act 1972: General Disposal Consent (England) 2003 to make disposals which 'will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area', where the difference between the unrestricted value of the interest to be disposed of and the consideration accepted is £2m or less.
35. Decisions to exercise this discretion are open to challenge by judicial review and it is essential that valuation evidence is obtained and a defensible rationale is produced before any decision to exercise the discretion is made.

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Staff Implications

36. There are no staffing implications.

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Annex: Annex 1 – The vacant properties list

Background papers: [PCSOSC July 24 - Community Wealth Building and Wider Social Value](#)

[Cabinet Sept24 - Community Wealth Building - Action Plan and Next Steps](#)

[Cabinet Oct 24 - Report of Performance and Corporate Services Overview and Scrutiny Committee \(CWB\)](#)

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