

Division(s):

CABINET – 8 DECEMBER 2016

IMPLICATIONS OF ASSET TRANSFER POLICY FOR CHILDREN'S CENTRES

Report by Acting Director for Environment & Economy

Introduction

1. The Council's Asset Transfer Policy was established in 2012 to support the transfer of responsibility for running and managing buildings to community groups where a sustainable plan for continuing local provision was proposed. Initially this saw the transfer of 6 youth centres.
2. In many cases the transfer involved some sort of subsidy or grant under the Big Society Fund to support the community organisations establish activity and their operating models. The intention was always that this subsidy would be short term and time limited as the new model became self-funding and sustainable.
3. The Asset Transfer Policy was reviewed early in 2016 following collaborative discussions with services and tenants in light of lessons learnt under the last wave of asset transfers arising under Big Society (see case study within Appendix 1).
4. It seeks to ensure that:
 - Any subsidy provided to community groups or organisations via property is transparent
 - community organisations are motivated to consolidate into the actual space required
 - opportunities to sub-let are encouraged where it helps to make community-led operations sustainable, but any income arising is transparent
 - the council can choose to reduce levels of subsidy over time in light of competing priorities and as part of community proposals becoming self-financing and sustainable
 - subsidy can be removed when leases are renewed as part of sustainable plans for ongoing operations
5. It was approved during the summer of 2016 (see annex 1). The material change was that the Council would not let premises upon a notional or peppercorn rent but would charge an appropriate rent for the property in line with ambitions to make most effective use of Council assets, which takes into account the restriction for community use (see para 14 for more detail).

Background to the previous changes

6. Having a peppercorn or notional rent as per the previous policy has led to some issues with how the assets are managed and accounted for including:
 - the subsidy provided is not transparent, nor recognised by the wider community
 - no motivation to consolidate operations into a more suitable sized premises
 - reduced motivation to collaborate to find a sustainable solution
 - no ability to reduce levels of subsidy in light of competing priorities
 - ability to remove subsidy when leases are renewed is compromised
 - opportunities for relocation to alternative buildings to facilitate development are compromised
 - disadvantages those that utilise non-Council owned premises
 - no ability to offer rent free periods to resolve maintenance issues on transfer, thus requiring further subsidy

Any building let on a notional/peppercorn rent is in practice an indirect subsidy due to lost income (by removing the opportunity to sell or lease out the building, and an increased chance that the business proposal is unviable and does not allow for maintenance costs. This in turn can mean the Council still has to pick up the costs of maintaining the building and any future repair liabilities, particularly where the community group is only responsible for renting part of a building.

7. The asset transfer policy retains the principal of accepting reduced rents where the council supports a community initiative compared to rental levels that could otherwise be gained within commercial markets. It looks toward rental levels for community uses that are 50% of commercial rental levels.
8. Furthermore the Policy for Early Years and Childcare Providers operating on a school or council site dated 8 December 2014 recommends a rental level of approximately 25% of commercial rental levels for organisations meeting statutory need for early years places.

Council Motion 1st November

9. At the meeting of full council on 1st November 2016 a motion called upon Cabinet to waive the rent for a building where that would keep a Children's Centre open in circumstances where it would otherwise have to close.
10. The aim is still for community groups providing Children's Centre services to develop self-financing, sustainable proposals – but Cabinet has now been asked to provide extra help for groups in situations where a business plan could not be approved without rent support. Cabinet will still need to determine applications for

transition funding on an individual basis, looking at a number of issues – not just rent.

Financial Implications

11. The consequential effects upon council budgets of waiving rents for children's centres are yet to be fully established due to the many scenarios' that could arise. The overall rental income for Children's Centres affected by the motion is approximately £155k per annum, assuming the application of community rental levels that are 50% of commercial rental levels.
12. Most of these sites hold a grant funding liability that would require the council to repay either Sure Start or Back on Track funding if services cease to be delivered from these premises, although this diminishes over the life of the building.
13. This liability could be mitigated by the sustained use of the building for delivering predominantly early years services (0-5 year old for the life of the asset (defined differently depending on nature of building but varying from 5-25 years), although the liability remains with the Council to demonstrate the ongoing delivery of services in line with the original grant and is subject to approval from the Department for Education. This has already been granted in some cases locally and nationally, and ongoing conversations remain positive about other sites.
14. The current position on direct County Council budgets is that this would apply as follows for non-school sites:

Name	Comment upon property	Initial Estimated Rents (pa) based on Desktop Analysis (3) at 50% commercial rate	Grant Liability based on April 2017
Berinsfield Children's Centre	Stand-alone County Council building	£10,818	£0
Berinsfield Early Intervention Satellite	County Council integrated joint use space within leisure centre	£14,962	£54,000 (1)
Britannia Road Children's Centre, Banbury	Group of County Council buildings, approximately half of which was utilised as a children's centre	£38,493	£2,504 (2)
Florence Park, Oxford	Ground lease from Oxford City Council. County Council stand-alone building within a park with restricted use	£30,597	£583,972 (2)
Kidlington Kaleidoscope	Ground lease from parish, modular building; could restrict wider development; (County Council also holds ground lease for the adjacent Forum which is not fully utilised – potential partner interest)	£8,719	£156,960 (1)

Red Kite Children's Centre, Thame	Old library in Thame owned by County Council (possible interest also in Chinnor library – costs not shown)	£6,588	£193,433 (2)
Wheatley Maple Tree	Stand-alone facility at edge of school campus	£11,755	£0
South Abingdon	Stand-alone facility at edge school campus (potential high land value)	£22,290	£206,273 (2)
	TOTAL	£144,222	£1,556,194

1. *Back on Track funding – liability may not be resolved through children's centre use*
2. *Sure start funding – liability could be resolved through children's centre and/or early years use, subject to approval by Department for Education*
3. *Rents may change as they are subject to lease terms inspection*
4. *Excludes premises leased back from Academies as lease terms will dictate the sub-lease terms which OCC can offer*

NB. This excludes any rental charges levied directly by a school governing body for use by a community group, or internal recharges it may choose to levy for direct delivery of open access services. Schools will be required to follow the principles set by the Asset Transfer Policy, and although in some circumstances they may wish to operate outside the policy the Council acts as ultimate landlord for any lease. In practice they are likely to want to avoid their own budgets being used for non-curriculum activity. They will also be aware that should they convert to an academy they will be expected to have robust lease arrangements in place.

15. The changes arising from the Children, Education and Families Transformation Programme will deliver financial benefits to the Council through changes in use to buildings previously used to deliver Children's Centre and Early Intervention services. This will be through rental income, reduced premises costs due to the transfer of liability for utilities, rates etc to third parties and generating capital receipts where properties are released. However there are short term pressures upon budgets due to:

- Budgeted savings have already accounted for the savings in premises costs. The costs of holding, managing and releasing any empty properties now fall as a pressure to corporate landlord (e.g. rates, security, residual utility costs etc).
- There will be costs to market, develop and/or dispose of surplus property realised under the programme in order to minimise holding costs.

16. Outstanding grant liabilities are significant which could be argued to therefore justify some level of short term support, on the basis that the cost of the subsidy (particularly if short term) would be significantly less than the liability so is overall financially beneficial for the council.

17. Some sites however could generate capital receipts or long term revenue streams which significantly outweigh the grant liability upon the site, which may be impinged by community transfer.

Legal Implications

18. Paragraph 24 in section 123 of the Local Government Act prohibits disposal of land for less than the best price reasonably obtainable without the consent of the Secretary of State. There is a statutory exception in Section 123 for any tenancy not exceeding seven years.
19. Sure Start Grant Constraints on the disposal of assets and change of use states that where the market value exceeds £2,500, the authority shall consult the Secretary of State if it proposes to dispose of, change the use of, or transfer ownership of a tangible asset (e.g. land, building and equipment) or intangible asset (e.g. copyrights) which has been financed wholly or developed with grant from the Secretary of State or which has been substantially improved by the use of such funds.
20. Any proceeds, where the total amount exceeds £2,500, resulting from the disposal of an asset financed with grant from the Secretary of State, or the appropriate proportion thereof, shall be surrendered to the Secretary of State, except where proceeds are to be reinvested into Sure Start, Extended Schools and Childcare services subject to agreement from the Secretary of State.
21. Where the market value exceeds £2,500, if the purpose of an asset, funded wholly or in part from grants from the Secretary of State, is changed from that for which it was originally funded, the value of that asset, or the appropriate proportion thereof, shall be remitted to the Secretary of State. Unless otherwise agreed in writing by the Secretary of State with the consent of the Treasury, the authority shall not dispose of assets below market value.
22. Further information on disposal of assets is contained in the Sure Start Extended Schools and Childcare Group Capital Guidance.

Maintaining existing asset transfer policy for children's centres

23. The existing asset transfer policy already includes the clear principle to offer community organisations a rental level that is 50% lower than the full commercial rent the property could generate.
24. Whilst the Council motion focusses upon the aspiration to keep a children's centre in particular open, proposals may also be sought and/or forthcoming in other service areas currently occupying council buildings (for example day services, libraries) which may have financial implications based on precedents set for children's centres.
25. Providing additional subsidy or further reductions in rent outside of the existing asset transfer policy for children's centres in particular may set a precedent for

future transfers in different service areas, and could be seen to contradict previous decisions taken under the policy.

26. The council has both a legal responsibility and a financial need to ensure it achieves best value from its property portfolio. Income from our assets helps to fund core services and any reduction of income will have an impact on overall Council finances. As well as seeking to maximise the rental or capital income from sites, this also means there is benefit in working with community groups to ensure they are using the most appropriate space for the delivery of services and that we use our assets as efficiently as possible.
27. Some sites are larger than necessary to deliver a Childrens Centre service and many sites are proposed to be multiple use. It may be that a relatively small part of the building will be used for early intervention services. Setting a level of rent lower than that in the existing asset transfer policy for the proportionate area used for the services may impact on the overall viability of the building as a whole.
28. There may be situations where a community group looks to generate income from sub-leasing space or using space commercially to cross fund the service, thus essentially self-subsidising and meaning the community group is better able to meet the levels of rent set under the existing asset transfer policy.
29. It is therefore proposed that the overall terms of the Asset Transfer Policy are maintained in relation to children's centres, subject to the following considerations.

Additional support for the development of viable business cases

30. The Council motion focuses on the intention of providing additional support to community groups and organisations in developing and implementing sustainable business cases. Whilst several expressions of interest have been put forward that are considered viable, hence the initial six approvals through the Transition Fund, numerous others are at earlier stages of development.
31. In these cases, the Council could firm up and extend its offer of additional support and advice to develop the business case further. This additional support would be in keeping with the existing asset transfer policy, and the terms of the transition fund.
32. The offer could include policy and property advice, identifying alternative income generating options, reviewing the most suitable locations and use of space from which to deliver services, and appropriate insurance and financial planning.
33. From January the Council will also be employing dedicated Community Coordinators (within CEF) to work with community organisations to support the operational implementation of business cases (such as development of safeguarding policies, insurances, recruitment and training of volunteers etc).

34. Although it is not explicit within the Transition Fund criteria, consideration is currently given to the ability of the community organisation to meet rent commitments within the sustainability of the business case and in deciding the level of funding to be awarded. However, in light of the Council motion it is proposed to make some changes to the process and approach.
35. Where community groups will not have a viable business case agreed to allow services to begin on 1st April, existing services will cease. However, it is proposed that additional support (as outlined in para 31) will continue beyond 1st April to help community groups develop a viable business case fully, and that there will then be further decision-making rounds of the Transition Fund when business cases can be brought forward.
36. It is therefore proposed that a deadline is set for these cases to be brought forward to be agreed at a 3rd and final round of the Transition Fund, no later than the Cabinet meeting in July 2017.
37. It is also proposed that the Council awards a defined, short-term rent-free period of up to a maximum of 6 months to support mobilisation, where the business case would otherwise not be viable.
38. After this initial period the rent would increase in line with the asset transfer policy, to 50% of the commercial rent level for the property. This would provide the maximum levels of consistency across existing and future asset transfers; do the most to encourage and support sustainable, community-led solutions; and manage the financial implications for the Council.
39. This proposal would result in an immediate financial pressure of up to £72,111 (based on 6 months of potential annual income of £144,222 across all centres).
40. This approach would be in keeping with previous decisions (such as youth centres) where initial subsidies were offered before reverting to the terms of the asset transfer policy.

Risks

41. An outline of the potential risks are considered below:

Description of areas or sources of risk	Mitigation
Pressure for extension of transitional subsidy if service fails to become sustainable post opening	Reliance upon approved policy rather than ad-hoc decisions
Pressure for re-application of transitional subsidy on lease renewals	Reliance upon approved policy; where lease renewals result in material changes in terms and continuation of an OCC service by the community then decision by Cabinet member in

	consultation with key members; can only offer subsidy for maximum of 7 years.
Pressure to apply rent free charges to aspects of the building not being used to deliver the open access service – but are to be used to generate income to subsidise delivery of the service	Transparency and consistency of decision-making in line with overall policy If policy is revised to offer rent free periods ensure decision is by Cabinet member in consultation with key members taking into account viability, grant liabilities, alternative uses for the asset etc.
Space held within a school site which is and will become under the control of the governing body is negotiated directly by the school on terms that conflict with the asset transfer policy	That schools are provided with a copy of the asset transfer policy to ensure discussions with community groups are informed and that the policy is consistently applied
Post Academy conversion results in revised charges being levied upon renewal of the lease which destabilise the community group and the Council could face pressure from Academy providers to fund any shortfall in operational costs that arise upon conversion)	That appropriate charges are levied in the first instance
Post Academy conversion space is not used for purposes that protect the Council from liabilities arising from Sure Start Grants	OCC lease back space from the Academy and sub-lease to the community group until the Sure Start liability is released.

Equalities Implications

42. There are not considered to be any specific equality implications arising from this report and the proposals, as the application of the asset transfer policy and offer of additional support to community groups is equally applicable to all irrespective of location or protected characteristics.

RECOMMENDATION

43. The Cabinet is **RECOMMENDED** to:

- (a) Maintain the terms of the existing Asset Transfer Policy in considering transfers of children's centres to community groups;
- (b) Extend additional support (as outlined in para 31) beyond 1st April to help community groups develop a viable business case fully;
- (c) Agree that a deadline is set for these cases to be brought forward to be considered at a 3rd and final round of the Transition Fund, no later than the Cabinet meeting in July;
- (d) Offer a defined, short-term rent-free period of up to a maximum of 6 months to support mobilisation, where the business case would otherwise not be viable. After this initial period the rent would increase in line with

the asset transfer policy, to 50% of the commercial rent level for the property.

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Background papers: Asset Transfer Policy

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