

Report to: Place Scrutiny Committee

Date of meeting: 12 March 2024

By: Chief Operating Officer

Title: Community Assets – Update

Purpose: To provide an update on how East Sussex County Council’s assets have been used for community asset transfer by community and voluntary groups.

RECOMMENDATIONS

Place Scrutiny is recommended to:

- 1) note the update report and;
- 2) agree suggestions outlined in paragraph 2.18 of the report to provide greater awareness of community asset opportunities.

1 Background

- 1.1 East Sussex County Council’s (the Council) Asset Management Plan (AMP) 2020-2025 provides the strategic framework in relation to how the organisation manages its assets. The AMP links to the wider Council Plan (2023/24) which sets out the ambitions and what is planned to be achieved by 2026 with four overarching outcomes including *making best use of resources now and in the future*.
- 1.2 The Council’s asset portfolio comprises operational assets including maintained schools, its office estate and non-operational estate. The operational assets are used for delivery of the County Council’s services or joint delivery with its public sector partners or it’s outsourced contractors. All local authorities, including East Sussex County Council undertake regular business and service transformation and therefore the asset footprint for various operational services has altered over the last 10 years. In addition, in 2018, the Council reviewed all its services in consultation with residents on its “core offer”. The outcome of the Council’s core offer and also specific business and service transformation resulted in a reduced requirement for assets/land in respect of the delivery of operational service needs.
- 1.3 Once an asset is not used directly for Council service delivery it is declared surplus for a particular service then it is offered to other directorates if they have a service need. Over the last 10 years, assets have become surplus to service need after confirmation that no wider operational use is needed from all directorates.
- 1.4 The Council has sought to maximise its capital receipts, reduce its ongoing revenue from its leasehold estate (as a tenant). However, this is balanced with opportunities for community and voluntary groups to utilise the wider set of local authority assets when they become surplus.
- 1.5 The Council agreed it’s Community Asset Transfer policy in 2016 and this is attached as Appendix 1. This was prepared before the Council’s 2018 Core Plan review and the new 2020-2025 Asset Management Plan.

2 Supporting information

Community Asset Policy 2016

- 2.1 The Community Asset Transfer Policy 2016 sets out that the process of asset transfer could be initiated in two ways:

- a) Option 1 – The Council identifies an asset which has been formally declared surplus following service transformation.
- b) Option 2 - A request from the voluntary and community sector to lease or acquire an asset if it becomes surplus to operational requirements.
- 2.2 In the case of option 1, following a review of the Council's assets and relevant engagement and approval on which community assets are suitable for transfer, the asset will be advertised and the local voluntary and community sector will be made aware. For option 2, the Council will assess the initial request to determine whether the asset is suitable for potential asset transfer.
- 2.3 For option 1, interested parties are directed towards completing an initial Expression of Interest providing details about the organisation, identifying the building proposed to be transferred, identifying the organisation's plans for the building and identifying any local support for the proposal (amongst local members and the local community). The Council set out the terms of occupation it proposes including a short term lease. When there are a number of interested parties in an asset that has been made available for transfer, the Council will aim to encourage collaboration. However, when this is not possible a competitive process is used to decide the outcome and the successful organisation will become the Council's preferred partner in the transfer process. The grant of short leases allows community groups to build capacity and skills to provide viable and sustainable models. A number of short term leases granted in 2019 have been renewed on a like for like basis.
- 2.4 For option 2, the Council seeks to market a surplus asset for either a short lease or freehold transfer, through a property consultant. The Council seeks offers from all potential bidders and this includes community and voluntary groups. The Council will review offers and consider the overall Council objectives and s123 Local Government Act 1972 provisions (see below). For any property transactions, with leases over 7 years or a disposal of a freehold below market value, a Lead Member decision is required.
- 2.5 Since 2019, under option 1, there have been nine cases, where assets have been let on short term leases to community, voluntary or non-profit organisations.
- 2.6 Since 2019, under option 2, there have been two successful community asset transfers. This includes Isabel Blackman Centre (freehold transfer) and 12 Claremont (long lease).
- 2.7 There have been other property transactions, where existing lettings to external not-for-profit organisations have sought longer leases than 5-7 years to enable access to external funding to refurbish or improve energy efficiency at the property. These transactions sit outside options 1 and 2 but reflect the Council's support for community and voluntary groups who already have a lease granted for a number of years. If longer leases are being proposed, over 7 years with heads of terms that reflect lower rent or modified lease terms, these have been subject to Lead Member approval, including Braybrook Arches (Hastings) and Tilling Green Centre (Rye). The Council is currently negotiating a longer lease at West Hill Community Centre to allow the Trust to refurbish the existing building and this will require Lead Member approval in late Spring 2024.

Statutory considerations

- 2.8 When considering potential community lettings or disposals, it is important to have regard to S123 Local Government Act 1972. This Act enables the Council to dispose of land in its assets in any manner it sees fit. However, this power is limited such that the Council must obtain best consideration except with the consent of the Secretary of State. It has generally been held that open market value of the land in question is relevant when determining whether best consideration has been achieved. The definition of a disposal of land/building includes a freehold transfer or the grant of a lease over 7 years.

- 2.9 However, the Local Government Act 1972 General Disposal Consent Order 2003 removes the requirement for the Council to seek the consent of the Secretary of State where it wishes to dispose of land below best consideration in specified circumstances Where it can likely contribute to:
- (i) wider promotion or improvement for economic well-being,
 - (ii) social well-being or,
 - (iii) environmental well-being.
- 2.10 Any reduction in value cannot exceed £2 million, otherwise formal Secretary of State consent is required. The Council needs to undertake due diligence to ensure a future owner or lessee has a robust business plan, governance and financial support in managing an asset and community focused service.
- 2.11 The undervalue is the difference between the unrestricted value of the asset land being disposed of and the restricted value (the restricted value to include the monetary value of any voluntary conditions).
- 2.12 The General Disposal Consent gives local authorities autonomy to carry out their statutory duties and functions, and to fulfil such other objectives as they consider to be necessary or desirable. However, when disposing of land at an undervalue, authorities must remain aware of the need to fulfil their fiduciary duty in a way which is accountable to local people.

Asset of Community Value

- 2.13 Local authorities are obliged to maintain a list of assets of community value in their area. In East Sussex, the five district and borough councils maintain the lists for their respective areas. An asset of community value ('ACV') is land that has been nominated by a community group or parish council and which the local authority considers has community value on the basis that the primary current or recent use of the land furthers the social well-being or social interests of the local community. This covers both private sector assets and public assets. There is a strict process for each respective district or borough to test if a community organisation, parish council or other group nominate an asset and whether it meets the criteria.
- 2.14 A number of Council owned assets have been listed by East Sussex boroughs and districts as Assets of Community Value (ACV). The Localism Act 2011 does not place any restriction on what the owner of an ACV can do with the property after it has been listed. However, under s.95 of the Localism Act 2011, a person who is an owner of land included in the local authority's list of ACVs must comply with a number of conditions before entering into a relevant disposal of the land. In relation to any landowner (including the County Council) it cannot enter into a relevant disposal of the property unless the following two conditions are met:
- (i) It has notified the appropriate district/borough in writing of its wish to enter into a relevant disposal of the property.
 - (ii) A full moratorium period of six (6) months beginning with the date on which the appropriate district/borough has received notification of the intended disposal has ended.
- 2.15 As an example, the former Household and Refuse Waste Recycling Centre, Forest Row was listed within Wealden District Council (WDC) as an Asset of Community Value. The County Council wished to dispose of the asset, so it triggered the process letting Forest Row Parish Council and WDC know. The site was marketed, and offers were made by the private sector and Forest Row Parish Council. A Lead Member decision was made after consideration of financial, social value and economic benefits for the disposal to a private sector organisation.

Community Hubs Vision

- 2.16 In September 2022, Cabinet agreed a strategy working with Partnership Plus and Voluntary, Community and Social Enterprise (VCSE) focusing on five core community hubs across five districts/boroughs and working with all partners. East Sussex County Council, District and Borough Councils, VCSE organisations and the NHS Sussex have worked together with an action plan. The action plan promotes wider community group usage of existing community hubs and promotes virtual service delivery. This has allowed some community groups to deliver support in existing community hubs without the requirement for their own accommodation.

Strategic Property Asset Collaboration in East Sussex (SPACES)

- 2.17 A separate report on SPACES is included within the 12 March Place Scrutiny Committee agenda. The SPACES programme team have established a strong partnership relationship with VCSE representatives who are responsible for raising awareness of VCSE needs with SPACES partners. The SPACES programme team have successfully facilitated finding solutions for a number of community and voluntary groups needs (including interim uses) with under-utilised assets across the agencies through the partnership 'space needs and available' process. SPACES has also previously facilitated a CAT.

Reflections on community asset transfers and suggested way forward

- 2.18 There has been engagement with a number of stakeholders, including Members on the County Council's future approach to community asset transfers. There has been engagement with Voluntary, Community and Social Enterprise (VCSE) lead from SPACES, as well as Members and community groups who have benefitted from community asset transfer. The feedback was that the Community Asset Policy 2016 needs to be streamlined. Some revised guidance will be proposed for the Council's website by late Spring 2024, subject to this committee's suggestions. The key elements will be:
- a) The Council's website will have a schedule of assets planned for disposal where the Council's objective is to secure a capital receipt. This doesn't preclude community groups or voluntary groups bidding.
 - b) The Council's website will have a schedule of assets that are surplus that are offered for community or voluntary groups under a short lease agreement.
 - c) The Council seeks to dispose of an asset if listed as an Asset of Community Value by one of the five districts or boroughs.
 - d) A detailed checklist will be added to the website to allow community groups or the voluntary sector to collate information so if assets become surplus they are aware.
 - e) Links to the five district and borough Asset of Community Value lists will be added.
 - f) The local Ward Member will be notified of any approach by a community group or voluntary group for a community asset transfer request.
 - g) SPACES will continue to work with partners to process any VCSE emerging community or voluntary group accommodation needs. The requirements can be put forward directly by the individual voluntary or community organisation, the VCSE Alliance representatives, District or Borough Council or other partner on their behalf.
 - h) A dedicated contact within Property so queries can be raised by community and voluntary groups.

3 Conclusion and reasons for recommendations

- 3.1 The Community Asset Policy has delivered outcomes for community and voluntary groups to provide community services since 2016. Whilst the Core offer in 2018 did present opportunities for community asset transfer with short leases being granted following children centre, libraries and other service transformation, there are fewer assets now available at present that fall under option 1 or 2 above.

3.2 The Place Scrutiny Committee is recommended to:

3.2.1 note the update report and;

3.2.2 agree suggestions outlined in paragraph 2.18 of the report to provide greater awareness of community asset opportunities.

ROS PARKER

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